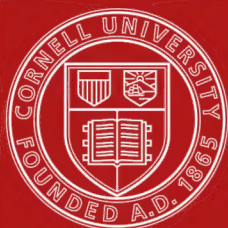


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TARIFF SCHEDULES

HEARINGS

BEFORE THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

VOL. VI

**FREE LIST, MISCELLANEOUS,
ADMINISTRATIVE**

INDEX IN FINAL VOLUME

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FREE LIST.

FREE LIST.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
January 31, 1913.

The committee met at 10 o'clock a. m., Hon. Oscar W. Underwood in the chair.

Present: Messrs. Harrison, Brantley, Kitchin, James, Rainey, Dixon, Hull, Hammond, Peters, Palmer, Payne, Hill, Needham, Fordney, and Longworth.

The CHAIRMAN. The committee will come to order.

That on and after the day following the passage of this act, except as otherwise specially provided for in this act, the articles mentioned in the following paragraphs shall, when imported into the United States or into any of its possessions (except the Philippine Islands and the islands of Guam and Tutuila), be exempt from duty:

PARAGRAPH 482.

Acids: Arsenic, or arsenious, benzoic, carbolic, fluoric, hydrochloric or muriatic, nitric, phosphoric, phthalic, picric or nitropicric, prussic, silicic, and valerianic.

See J. F. Schoellkopf, page 5805.

PARAGRAPH 483.

Aconite.

PARAGRAPH 484.

Acorns, raw, dried or undried, but unground.

PARAGRAPH 485.

Agates, unmanufactured.

PARAGRAPH 486.

Albumen, not specially provided for in this section.

PARAGRAPH 487.

Alizarin, natural or artificial, and dyes derived from alizarin or from anthracin.

ALIZARIN.

TESTIMONY OF THOMAS M. LANE.

The witness was duly sworn by the chairman.

Mr. LANE. Mr. Chairman and gentlemen of the committee, I see that I have a place on the calendar to lay before you two subjects. With your permission I will reverse their order, if that is entirely satisfactory.

The CHAIRMAN. Proceed in your own way, Mr. Lane.

Mr. LANE. In the report made by your committee last year on the chemical schedule, you pointed out the necessity for a revision

PARAGRAPH 487—ALIZARIN.

of the classification and terminology of the schedule as to certain matters in order to bring it abreast of the development of the chemical industry. We assume that one of the things you would desire to accomplish by a change in the law would be the elimination of inequalities in treatment between dyes belonging to the same class. And it is in that connection that we desire to lay before you some considerations bearing upon the classification of an important class of anthracin vat dyes. The paragraph upon which we particularly wish to speak is the one known as 487, which relates, to read the phraseology of the act itself, to "Alizarin, natural or artificial, and dyes derived from alizarin or from anthracin." The phrase "derived from anthracin" in that paragraph is the phrase that affects our article and is the provision under which we have up to this time unsuccessfully endeavored to have it classified.

Mr. HAMMOND. What are you particularly interested in? In alizarin, did you say?

Mr. LANE. These are anthracin derivatives. That is our contention, and that is the contention that up to this time has been denied, so that that part of paragraph 487 that exempts dyes derived from anthracin is the part in which we are interested.

The dyes which are manufactured by the interests which I represent are known as hydron blues. They are a dye that is very largely used in Germany and might be very largely used in this country and subserve the same purpose as the anthracin derivatives, which are concededly such, and indigo. Hydron blues are made directly from a chemical substance called carbazol. Carbazol can be made in commercial quantities only from commercial anthracin. A method of separating carbazol from commercial anthracin in practicable commercial quantities has been perfected since the last tariff act went into effect, and the discovery of hydron blues followed upon the perfecting of this method of separating carbazol from commercial anthracin. These dyes are fast dyes; they are blue in color and exceed in fastness the anthracin derivatives and indigo. The fact that these dyes are derived from carbazol, which in turn can only be made in commercial quantities from anthracin, we think establishes their status as dyes derived from anthracin, but if the question were submitted to half a dozen different minds, I suppose we might have differences of opinion upon that subject.

What does the phrase "derived from anthracin" mean? Must the substance from which the dye is derived be the parent, or the grandparent, or the great-grandparent, or the great-great-grandparent of the dye that is brought into this country? Up to this time the customs authorities and Board of General Appraisers have ruled against us on the proposition that these dyes are derived from anthracin. The question is now before the United States Court of Customs Appeals, has been argued at considerable length, and the facts have been fully presented there.

But if there is ambiguity in the law we think this is the place to come to have it cleared up. As these dyes are in the same class, to all intents and purposes, as the anthracin derivatives and indigo, which have hitherto been on the free list, we think they should be classified with those dyes. In the chemical bill, which passed the House of Representatives last year, Congress departed from the policy

PARAGRAPH 487—ALIZARIN.

that it has followed for 40 years, of placing anthracin derivatives and indigo on the free list, and taxed them at 10 per cent, at the same time reducing the duty upon coal-tar colors 5 per cent. The company which I represent believes that to be a step in the right direction.

In fact, it has always stood upon this question of the classification of coal-tar dyes upon the proposition that there ought to be no distinctions, that you might raise more revenue and produce more equitable results by classifying the anthracin derivatives with the other coal-tar colors and taking the same duty, but you have followed that distinction as to the alizarin or anthracin derivatives and indigo, that prevailed during 40 years of legislation, when they were on the free list, and in so far as you departed from that in the chemical bill reported last year you still continue the policy of treating anthracin derivatives and indigo alike. You tax them both at 10 per cent. If that distinction is to be carried out, then we submit that all of the dyes derived from anthracin should be classified at the 10 per cent rate.

We have proposed to add to the provision for alizarin, natural or artificial, and dyes derived from alizarin or from anthracin, the words "or carbazol." Thus by two words you can bring the terminology of that provision into proper relation with the development of the coal-tar industry.

As the law now stands, it is interpreted in favor of certain German manufacturers who produce a limited number of patented anthracin derivatives and import them into this country. It discriminates against other manufacturers—these manufacturers who since the last tariff was enacted have discovered and developed valuable competing products in the same class. As I have said, these are largely used in Germany. They would undoubtedly be far more widely used here if they were placed upon the same basis unequivocally as the conceded anthracin derivatives. And the present state of the law, we maintain, discriminates not only against the manufacturers of these dyes but also against the textile industry, which uses the dyes of the anthracin and indigo class. Since their discovery, some two years ago, they have competed with free goods, and have paid 30 per cent duty. The result has been that the importations have been relatively small, and the aggregate amount of duty has been unsubstantial. We think that would be greatly increased if they were placed in the same class as the dyes with which they directly compete.

I should like to file our brief, Mr. Chairman.

The CHAIRMAN. It will be printed in the record.

Mr. LANE. And, if it please the committee, have it printed at the end of my remarks upon this subject.

The CHAIRMAN. The stenographer will take the brief in for the record.

Said brief reads as follows:

BRIEF ON BEHALF OF IMPORTERS OF CERTAIN ANTHRACENE VAT DYES.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: We desire to call to the attention of your committee certain inequalities in the treatment, under existing law, of various anthracene dyes belonging to the class known as "fast vat dyes," which inequalities we believe will be perpetuated if

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the language of the present tariff act, or of the chemical bill of 1912 known as H. R. 20182, is adopted in new legislation.

We are importers of certain anthracene fast vat dyes manufactured in Germany and known as hydron blues. These dyes are produced from carbazol, which is derived from commercial or crude anthracene. We have claimed the hydron blues to be properly classifiable under paragraph 487 of the present tariff act as "dyes derived from * * * anthracene," but such classification has been denied by the customs officials, who assess the dyes in question as "coal-tar dyes or colors, not specially provided for," at 30 per cent ad valorem under paragraph 15 of the tariff act of 1909.

Litigation as to the propriety of this assessment is now pending in the United States Court of Customs Appeals, but, as the law is thus misconstrued, we venture to ask your committee to clear the matter up by the insertion of appropriate phraseology when it writes the new tariff bill.

The language of the present act reads: "Par. 487. Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene."

The language we propose is: "Alizarin, natural or artificial, and dyes derived from alizarin, anthracene or carbazol."

THE RELATION OF HYDRON BLUES TO ANTHRACENE.

The hydron blues are derived from anthracene because their origin is traceable to the physical substance, commercial anthracene. Carbazol, from which they are directly made, is derived from commercial anthracene and can not be obtained in commercial quantities from any other substance. Up to this time the customs authorities have held that the phrase "derived from anthracene" does not refer to the commercial product, but refers to technically pure anthracene having the chemical formula $C_{14}H_{10}$.

It is only since the last tariff act went into effect that a commercial method of separating carbazol from anthracene has been perfected, and the discovery of hydron blues has resulted. Their derivation and properties, therefore, place them in the same class with the vat blues derived from anthracene. Clearly bringing them within that group in the tariff is in accord with the avowed object of your committee to bring the classification of the chemical schedule up to date, remove all obsolete features, and eliminate possible misconstruction.

Such treatment of these dyes is also in accordance with

THE ATTITUDE OF CONGRESS TOWARD THE FAST VAT DYESTUFFS KNOWN AS ALIZARIN OR ANTHRACIN DERIVATIVES, AND INDIGO.

For nearly 40 years it has been the policy to exempt from duty alizarin or anthracin derivatives and indigo. Provisions exempting alizarin, or alizarin or anthracin derivatives, and indigo are found in every tariff since 1875, the phraseology changing from time to time to meet the development of the industry.

While the policy of giving these products free entry was departed from for the first time in many years in the bill which passed the House of Representatives in 1912, known as H. R. 20182, there was no departure from the policy of treating them alike. That bill imposed an ad valorem duty of 10 per cent on "alizarin, natural or artificial, and dyes derived from alizarin or from anthracin" (par. 6) and the same rate on "indigo, indigo extracts or paste, and indigo carmined" (par. 38).

If your committee sees fit to remove the dyes just enumerated from the free list and subject them to a tax of 10 per cent, no inequality will result. But what we ask is that the phraseology of the act should be so clear that all dyes properly falling within the same class should be treated alike. We do not believe that your committee intends that one fast vat dye derived from anthracin shall be dutiable at 10 per cent and another fast vat dye from the same derivation shall, by reason of a lack of clearness in the law, be assessed at 30 per cent.

The law as it now stands is interpreted in favor of certain German manufacturers who produce a limited number of patented anthracin derivatives and import them into this country, and discriminates against other manufacturers and importers who have discovered and developed valuable competing products in the same class. No dyes of this class are manufactured in America. We believe you will wish to correct this in the interest of the American textile industry, as well as in fairness to the importer. Hydron blues are among the fastest dyes known and are largely used abroad, but are almost prohibited to the American textile manufacturer because of the misconstruction of which we complain.

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As the dyes for which we speak have been upon the market but two years and have had to pay a duty of 30 per cent, while other anthracin dyes have paid nothing, the importations have been relatively small and the aggregate duty unsubstantial. An equal or greater amount of revenue would doubtless be collected from them if properly classified with the anthracin derivatives, because of the increased consumption that would result from placing them upon a competing basis.

Respectfully submitted.

CASSELLA COLOR CO.,
182-184 Front Street, New York City.
ROBERT ALFRED SHAW,
Vice President.
CURIE, SMITH, & MAXWELL,
Attorneys, 32 Broadway, New York City.
THOMAS M. LANE, Of Counsel.

The CHAIRMAN. Your time has expired, Mr. Lane. You say you have another question?

Mr. LANE. I have another question.

The CHAIRMAN. Proceed.

Mr. LANE. I presume I am allowed the regular time on this?

The CHAIRMAN. You may proceed.

Mr. LANE. I now wish to address you very briefly upon the subject of statuary and casts of sculpture imported for use in churches. In the tariff act of 1897, paragraph 649 contained a provision for regalia and gems, statuary and specimens or casts of sculpture, where especially imported in good faith for use and by order of any society incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale. That provision was not new. It had been in the tariff, in one form or another, for many years. Casts of sculpture and statuary, whether made of marble or composition, had been admitted free under it. In the last tariff act nearly all of the institutions entitled to the benefits of the exemption were cut out from it by the insertion of a clause immediately after the provision for statuary and casts of sculpture—

Mr. PALMER. What section is that of the present act?

Mr. LANE. Section 661 of the present act. These words were inserted immediately after the provision for statuary and casts of sculpture, "for use as models or for art educational purposes only." That practically limited the exemption to art schools, possibly to the museums, depending upon the breadth of construction given the clause. This was done at the instance of a few domestic manufacturers of composition church statuary, and it represents one of the few inroads that have been made upon a historic policy, if I read our tariff acts correctly, from almost the beginning of our tariff history of making exemptions for the encouragement of religion, the arts, and sciences.

Mr. HAMMOND. This was new in 1909, you say?

Mr. LANE. New in 1909. Now, during the entire life of the tariff act of 1897, and prior to that time, churches were permitted to import these composition statues—stations of the cross, statues representing symbolic and religious subjects—upon their own order and upon production of proper proof that the article was a bona fide transaction intended for a church, and was actually delivered to the church.

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The regulations surrounded the exemption with every proper safeguard, and that undoubtedly would be the case if the provision were restored.

We ask you to put the law back in the form that it existed under the act of 1897, by striking out those words inserted there, "for use as models or for art educational purposes only." We think that limits the provision beyond the real intention of Congress, as expressed in its policy for many years.

The American manufacturer, whether deserving protection or not, has generally kept his hands off these exemptions in the free list, and we think that it is fair that he should continue to do so. Even if there were a reason for this protection, we do not think that exceptions to these free-list exemptions should be made, but there was no reason, when this exception was inserted in paragraph 661 of the tariff act of 1909, and I firmly believe that the committee at that time was misled by the facts that were put before them. I have endeavored to correct that misapprehension in this brief.

Mr. HAMMOND. You have spoken in reference to statuary, but I wish to ask you if you know whether it has been held that regalia and gems used by various fraternal societies may be admitted free of duty under this clause 661?

Mr. LANE. I believe that has generally been denied to fraternal societies and has been limited to art, religion, etc.

Mr. HAMMOND. Fraternal societies have been held not to be incorporated simply for religious, literary, educational, and scientific purposes?

Mr. LANE. It depends somewhat upon the society, but my impression is that the fraternal society with which most of us are familiar has been denied the privileges of this paragraph. But I was about to call your attention to the actual selling prices of the American manufacturers of these statues. There are very few of them in this country—I believe at the outside six or eight, probably only four of which are at all important.

Mr. HARRISON. Did you hear the argument of the witness here the other day that we should admit all modern art free?

Mr. LANE. I did not hear it.

Mr. HARRISON. Do you think that modern art, if we were to adopt that suggestion, covers church statuary?

Mr. LANE. Well, I have some doubt about it, so far as it refers to the class of articles that I am talking about this morning. Certainly art experts would hesitate to admit that they were high art. They represent the class of composition plaster statuary that is used very largely in certain denominations as a most essential adjunct of worship.

They came in during the entire life of the act of 1897 under the provisions for casts, statuary, or casts of sculpture. There is no limitation there requiring those articles to be artistic, and there was never any question raised as to the classification after the Supreme Court decision cited in our brief; but the prices at which they were actually quoted by these American manufacturers, who got this rather unusual measure of protection by the insertion of a clause in an exemption for religious purposes, were then and are

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now—and we have filed a brief in which we have shown you the actual figures from our catalogues as against their figures from their catalogues—their prices were actually at that time lower than the prices for which the importing concerns were quoting these articles on a duty free basis; and although these articles have been paying 35 to 60 per cent since then—35 being the rate generally assessed—the American manufacturers have not advanced their prices, showing that there is apparently no need for it; that they are making an ample margin of profit without any advance in price.

Mr. FORDNEY. Is that generally the cause? When there is a duty in favor of the American-made article and it sells for no more than the foreign price, is it because they do not need protection? Is that your idea of that?

Mr. LANE. Well, it seems to me that it is a fair inference to draw.

Mr. FORDNEY. Well, in the case of tin, that was put at a very high price, and we have a very high duty on it, and the price is less than half what it was then. Is that an indication that there is no need for protection?

Mr. LANE. I would not want to say absolutely that it was.

Mr. FORDNEY. I wouldn't say so either.

Mr. LANE. I do not undertake to generalize, other than to call attention to this fact. We have even advanced our prices. They claim that the foreigners can manufacture the articles more cheaply.

Mr. FORDNEY. It is generally the case on every article that is on the protected list that the duty does not advance the price to the consumer.

Mr. LANE. At the time of the last tariff act the American manufacturers of these statues were claiming that they could not compete with the foreigner.

Mr. FORDNEY. Well, that is the argument of every manufacturer.

Mr. LANE. At that time the foreigners' price was higher, on these statutes, and it is still higher to-day. If you let them in duty free to-day, the price at which they would be invoiced by the foreign concerns would be higher than the price at which they are being quoted by the domestic concerns.

Mr. FORDNEY. Then the protection which is in the law hurts nobody, does it? There is no reason for change unless the consumer is being injured by it.

Mr. LANE. It absolutely eliminates competition.

Mr. FORDNEY. It eliminates the importer; he is the fellow that it hurts; he is the fellow that is complaining.

Mr. LANE. And it eliminates competition absolutely.

Mr. FORDNEY. No; it does not.

Mr. LANE. And cuts out—

Mr. FORDNEY. The domestic competition is so very great that the consumer is getting the benefit of it, and you do not need your foreign competition in order to protect the industries of this country and the consumer too.

Mr. LANE. Not only that, it restricts the churches, who ought to be permitted to get works of artistic or semiartistic character, without any tariff wall. It restricts them to the products of three or four man-

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ufacturers in this country. These articles are made in Munich and France far more beautifully than they are made here.

Mr. FORDNEY. This is an industry in this country, producing these articles, and under protection those articles are now being furnished to the churches at lower prices than before we had protection, and the church and no one else is injured, are they?

Mr. LANE. The same articles are not furnished to the churches; they haven't as full a market.

Mr. FORDNEY. Are you manufacturing those goods?

Mr. LANE. We are not, with one exception.

Mr. FORDNEY. You are an importer of them?

Mr. LANE. We are importers of them. We represent the leading importers of those goods. Mayer & Co. are also manufacturers in Germany.

Mr. FORDNEY. Can you tell me why it is that there has not been one single importer come before this committee who does not want a lower rate of duty, or free trade, although he is an American citizen, doing business here and looking to Americans for his pay and his customers?

Mr. LANE. Well, I suppose the reason is obvious. He wishes to be placed upon a competing basis with the American manufacturer; that is what he is asking of your committee.

Mr. FORDNEY. He wishes rather, my dear friend, to do a larger volume of business from abroad, and thus restrict American business. There can be no other answer to it, as far as I am concerned. I can not see it in any other light.

The CHAIRMAN. The substance of your argument is that heretofore these works of so-called art, to be used in the churches, came in free, and that the last law taxed them, levied a tax upon them, and you want them placed back on the free list?

Mr. LANE. That is it.

The CHAIRMAN. Your time has expired.

Mr. LANE. May I file, in this connection, a brief upon the subject of church regalia, and also a petition upon the subject of stained-glass windows?

The CHAIRMAN. They will be printed.

Mr. LANE. And I should like to file, with your permission, Mr. Chairman, the petition of Cardinal Gibbons and of some 30 bishops of his church, in support of the propositions that I have made to you this morning.

Mr. PALMER. As I understand your proposition, if the change in section 661 is made as you suggest, then section 661 will read the same as it did in the Dingley law and as it did in the laws prior to the Dingley law?

Mr. LANE. That is right. The Dingley law admitted these articles free throughout the entire 12 years of its existence.

Mr. PALMER. Yes; and also in the Wilson law and preceding acts.

Mr. LANE. The Wilson law and preceding acts.

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The papers submitted by Mr. Lane are as follows:

BRIEF ON BEHALF OF IMPORTERS OF CHURCH REGALIA.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: Paragraph 661 of the free list of the tariff act of 1909 exempts from duty regalia used in the public exercises of religious and other institutions. The full text of paragraph 661, so far as it affects this class of articles, is as follows: “* * * Regalia and gems, where specially imported in good faith for the use and by order of any society incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, seminary of learning, orphan asylum or public hospital in the United States or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe; but the term ‘regalia,’ as herein used, shall be held to embrace only such insignia of rank or office or emblems as may be worn upon the person or borne in the hand during public exercises of the society or institution, and shall not include articles of furniture or fixtures, or of regular wearing apparel, nor personal property of individuals.”

This provision has been in force for nearly 40 years. It may therefore be presumed to have a basis in sound public policy. Nor has the country's need of revenue ever been so great as to make it necessary to tax the chalice upon the altar, the vestments of the priest, or the censers and crosses of the sacred procession.

Our mixed population has brought many creeds and rituals from many lands, and it is often impracticable, if not impossible, to supply their needs, except in those countries where the traditions of their religion and its symbolism are fully understood.

At the hearings before your committee on the tariff act of 1909, however, four domestic manufacturing concerns requested that a duty be placed upon sacred vessels and other regalia. (Tariff Hearings, 60th Cong., 1908 and 1909, free list, pp. 7356-7360.)

It is not surprising that, although a majority of the Committee on Ways and Means at that time was sincerely committed to the policy of protection to American industries, it refused to disturb the exemption of this class of articles as it had stood for many years.

Anticipating that a similar attempt will be made before your committee, we respectfully protest against any change in the law affecting regalia as it now stands in paragraph 661 of the tariff act of 1909. We represent not only ourselves, but the thousands of churches and religious institutions who supply themselves with these articles through us. The consumer gets the full benefit of the exemption. He has to make the affidavits which entitle the merchandise to free entry. He thus knows that his goods will come in duty free, and the importer could not, if he might wish, do otherwise than quote these articles upon a duty free basis.

Respectfully submitted,

BENZIGER BROS.,

36-38 Barclay Street, New York City.

FREDERICK PUSTET & Co.,

52 Barclay Street, New York City.

C. WILDERMANN Co.,

17 Barclay Street, New York City.

B. HERDER, St. Louis, Mo.

DIEDERICH SCHAEFFER Co.,

Milwaukee, Wis., Importers of Church Regalia.

CURIE, SMITH & MAXWELL,

Attorneys, No. 32 Broadway, New York City.

THOMAS M. LANE, Of Counsel.

BRIEF ON BEHALF OF IMPORTERS OF COMPOSITION CHURCH STATUARY.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: The undersigned are importers of casts of sculpture, or plaster or composition figures, for use in churches, and respectfully ask your committee and Congress to restore to the free list the provision covering such articles as it stood during the 12 years of the life of the tariff act of 1897.

The corresponding provisions in the tariff acts of 1897 and 1909 are paragraph 649 of the former act and paragraph 661 of the latter, which read as follows:

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Paragraph 649, tariff act of 1897: "Regalia and gems, statuary, and specimens or casts of sculpture, where specially imported in good faith for the use and by order of any society incorporated or established solely for the religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale; but the term 'regalia' as herein used shall be held to embrace only such insignia of rank or office or emblems as may be worn upon the person or borne in the hand during public exercises of the society or institution and shall not include articles of furniture or fixtures, or of regular wearing apparel, nor personal property of individuals."

Paragraph 661, tariff act of 1909: "Statuary and casts of sculpture for use as models or for art educational purposes only; regalia and gems, where specially imported in good faith for the use and by order of any society incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, seminary of learning, orphan asylum, or public hospital in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe; but the terms 'regalia' as herein used shall be held to embrace only such insignia of rank or office or emblems as may be worn upon the person or borne in the hand during public exercises of the society or institution, and shall not include articles of furniture or fixtures, or of regular wearing apparel, nor personal property of individuals."

The provision for "statuary and specimens or casts of sculpture," as found in paragraph 649 of the tariff act of 1897, was undoubtedly intended by Congress to cover all statuary imported for the use of churches whether of marble, metal, or composition. Paragraph 454 of that act, however, contained a clause providing that the term "statuary," as used in the act, should be understood to include only such statuary as is "cut, carved or otherwise wrought by hand from a solid block of marble, alabaster, metal," etc. When, therefore, the question of the classification of molded composition or plaster of Paris church figures came before the Supreme Court, in *Benziger v. United States* (192 U. S., 38), it felt constrained to rule that the restrictive defining clause prevented such articles from being denominated "statuary" within the meaning of paragraph 649, but it nevertheless held such figures to be "casts" within the meaning of the same provision and free of duty thereunder as "casts of sculpture." As the result of this decision of the highest court these composition church figures and bas reliefs, when imported for the use and by order of churches and other institutions, were admitted free of duty during the entire life of the tariff act of 1897. As will appear hereafter, the Supreme Court was merely following the construction that for many years had been given to the provision for "casts" appearing in the tariff acts.

When the tariff hearings upon the act of 1909 were held before the Committee on Ways and Means, a small coterie of American manufacturers of so-called church statuary appeared before the committee, and, upon representations that the industry was in need of protection, succeeded in having the law changed and the long-standing privilege of free entry for composition church figures revoked. As will be seen from a comparison of the paragraphs quoted above, this was accomplished very simply by inserting the words "for use as models or for art educational purposes only," immediately following the provision for "statuary and casts of sculpture," thus depriving churches, public buildings, etc., of the right to import statuary and casts free on their own order, and practically limiting the right of exemption to art schools or museums.

We ask your committee to put the law back in its original form by striking out the phrase "for use as models or for art educational purposes only." This is the only change we request, and it will give to all the institutions named the full privileges of the paragraph, which were taken from the greater part of them by adding 10 words in the tariff act of 1909. The advantage thus secured to the millions of people supporting churches far outweighs the importance of increasing the private gain of a few manufacturers.

We respectfully offer the following reasons why the change requested should be made:

I.

THE DOMESTIC INDUSTRY IS UPON A COMPETITIVE BASIS WITHOUT THE DUTY.

The result of the change in the law brought about by the domestic manufacturer is, that if a church imports one of these casts upon its own order and for its own use, it must pay a duty of 35 per cent of 60 per cent (under par. 464, 95, or 93, respectively),

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depending upon the component materials, and the maker of the articles in this country secures a corresponding measure of protection.

It can be demonstrated that the duty thus imposed is ineffective as a revenue measure, being almost prohibitive of importation, and that the plea for protection can not be justified upon any sound economic grounds, for the reason that the business is upon a competitive basis without it.

The effect of the duty in stifling competition can be illustrated by the experience of a single importer. Messrs. Benziger Bros., of New York, one of the largest importers of church casts, imported these articles during the six years from 1904 to 1909, inclusive, at an average in foreign value of \$12,312.82 per year. During the three years from 1910 to 1912, inclusive, the average was \$1,740.33 per year. In other words, the importations have decreased 85 per cent since the amendment of the law.

In the brief filed by the domestic manufacturers at the tariff hearings in 1908 and 1909 (Tariff Hearings, 60th Cong., Free List, p. 7352), the yearly sales of these articles in the United States was estimated at \$1,000,000, of which it was stated that the domestic industry sold about \$600,000. Thus, it appears upon their own showing that they controlled 60 per cent of the market at the time they were seeking the protection which was afterwards given them. How much more of this business they have acquired since then may be inferred from the experience of the importer mentioned above.

If any further evidence is needed that the industry is upon a competitive basis without the duty, it is supplied by the figures at which the leading domestic manufacturers are selling the casts at the present time.

There are appended to this brief (pp. 11-14) cuts showing actual reproductions of figures illustrating the same subjects and of substantially the same quality and quantity of workmanship from catalogues of four of the leading houses handling this class of goods, two of them being domestic manufacturers and two importing houses.

The domestic manufacturers are the Daprato Statuary Co. and the Bernardini Statuary Co. The importers are Benziger Bros. and Mayer & Co. The catalogue prices of the domestic manufacturers are those prevailing at the time of writing this brief, which were also the prices in force in 1909. The prices of the importers are the prices free of duty which prevailed in 1909, before the passage of the new tariff act, since which time the foreign value of these figures has advanced.

The casts selected are typical and were chosen at random, and it will be found in every instance that the prices quoted by the domestic concerns are lower than the duty-free prices quoted by the importing concern for figures of the same height and character.

Take, for illustration, the four subjects shown by the cuts appended to this brief and comparing figures of the same height in "rich" decoration, we find the following scale of prices quoted for churches:

Subject.	Height.	Domestic manufacturers.		Benziger Bros. (importers).
		Daprato Statuary Co.	Bernardini Statuary Co.	
Virgin and Child.....	5 feet.....	\$42	\$35	\$43
Our Lady of Lourdes.....	5 feet.....	41	35	43
Sacred Heart.....	5 feet 4 inches.....	46	40	50
Angels (per pair).....	2 feet 8 inches to 3 feet 3 inches.	38	38	61

A corresponding difference will be found in the other sizes and decorations shown by the cuts.

Some importers, as, for example, Mayer & Co., quote much higher prices than Benziger Bros.

II.

THE PRESENT LAW INVOLVES UNJUST DISCRIMINATIONS.

A state of the law which permits the importation of costly statues by rich congregations free of duty and imposes taxes upon articles of a less artistic and expensive character

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imported by poor congregations is an unjust discrimination to which Congress should not give its sanction.

Wealthy churches can import costly and beautiful statues under the provision for works of art in paragraph 716. These cheap plaster figures and "Stations of the cross" are an indispensable feature of worship in thousands of poor churches scattered throughout the country which are supported by the voluntary contributions of the laboring classes.

The amendment inserted in the tariff act of 1909 by which these articles were excluded from free entry was a departure from the long-established practice of Congress to accord free entry to articles imported for educational and religious purposes. That privilege is given in the same act to many articles open to the same objections against their free entry as were urged against these casts. Thus we find on the free list books, maps, music, photographs, etchings, lithographic prints and charts (Par. 519), philosophical and scientific apparatus, utensils, instruments, and preparations (Par. 650), regalia and gems (Par. 661), works of art (Par. 716), etc., all of which pay no duty when imported for educational or religious institutions. Even theatrical properties may be brought into the country for a year without paying duty (Par. 656). The publishers of the United States, the manufacturers of laboratory apparatus and utensils, of theatrical properties and works of art, have as much right to ask that the religious and educational institutions, or the theatrical managers, pay duty on the products thus exempted, as have the manufacturers of church statuary and casts.

If any articles imported for religious or educational purposes are to be admitted free, then we submit there are no articles which are more entitled to that privilege than those which form the subject of this communication.

III.

THE PROPOSED CHANGE ACCORDS WITH THE POLICY OF CONGRESS.

We respectfully submit that the Supreme Court in *Benziger v. United States* (192 U. S., 38), correctly stated the intent and uniform policy of Congress and the practice of the executive branch of the Government thereunder. Thus, after reviewing the earlier statutes upon the subject, the court says (p. 45):

"An examination of the provisions of the various statutes shows a somewhat uniform purpose on the part of Congress to provide free entry to casts of marble, bronze, alabaster or plaster of Paris, and also statuary and specimens of sculpture, when specially imported in good faith for the societies enumerated in the acts."

The court called attention to a decision of the Treasury Department in 1891 in which, considering such claims as those advanced on behalf of the manufacturers, it said:

"The department believes that the crude or inartistic character of the figures under consideration can not be urged as a reason for their exclusion from the benefits of free entry. It is fair to infer a liberal intention on the part of Congress from the fact of its inclusion of religious institutions among those to which the privilege of free entry is extended. Religious institutions are not schools of art, nor can congregations without adequate means always consult esthetic rules in regard to the equipment of their churches. It is the sentiment of pious associations which gives the figure its efficiency as an aid to the religious worship, and the plaster cast may in this way be as serviceable to the humble worshiper as the more costly work of genius."

That the promotion of religion, irrespective of sect or creed, accords with our traditions and fundamental laws need hardly be argued. As the Supreme Court observed in the *Holy Trinity Church case* (143 U. S., 457, 465, 470):

"No purpose of action against religion can be imputed to any legislation, State or national, because this is a religious people. This is historically true. From the discovery of this continent to the present time there is a single voice making this affirmation. * * * There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning; they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire people."

Casts imported for educational societies have been free since 1816, those imported for churches were free from 1861 to 1870 and from 1883 to the passage of the tariff act of 1909. Some further reason should be shown for discontinuing this policy than the desire of a small group of manufacturers to increase their profits at the expense of the churches.

We respectfully submit that a return to the phraseology used in paragraph 649 of the tariff act of 1897 is justified by every sound consideration, as it will restore to all

PARAGRAPH 487—ALIZARIN.

of the institutions named privileges of free entry which were taken from them by the amendment of 1909; it will give them the benefit of a fair competition between the domestic and foreign producer, and while taking from a few domestic concerns the monopoly which they now enjoy, will not in the least endanger their hold upon the greater part of the business done in this country.

MAYER & Co.,
45 Barclay Street, New York City.
BENZIGER BROS.,
36-38 Barclay Street, New York City.
FREDERICK PUSTET & Co.,
52 Barclay Street, New York City.
C. WILDERMANN Co.,
17 Barclay Street, New York City.
B. HERDER, St. Louis, Mo.
CURRIE, SMITH & MAXWELL, Attorneys,
32 Broadway, New York City.
THOMAS M. LANE, Of Counsel.

Extracts from the catalogues of Daprato Statuary Co., domestic manufacturers.

No. 77. Virgin and Child.	Style of decoration.	
	Rich.	Extra rich.
<i>Height.</i>		
5 feet 6 inches.....	\$48.00	\$58.00
5 feet.....	42.00	51.00
4 feet 8 inches.....	38.00	45.00
4 feet 6 inches.....	33.00	40.00
4 feet.....	27.00	32.00
3 feet 9 inches.....	23.00	28.00
3 feet.....	14.00	17.00

Extracts from the catalogues of the Bernardini Statuary Co., domestic manufacturers.

No. 72. Virgin and Child.	Style of decoration.	
	Rich.	Extra rich.
<i>Size.</i>		
5 feet 8 inches.....	\$50.00	\$60.00
5 feet 4 inches.....	40.00	50.00
5 feet.....	35.00	45.00
4 feet 8 inches.....	30.00	40.00
4 feet 4 inches.....	25.00	35.00
4 feet.....	20.00	28.00
3 feet 6 inches.....	15.00	23.00
3 feet 4 inches.....	14.00	20.00

Extracts from the catalogues of Benziger Bros., importers.

No. 1037. Virgin and Child.	Style of decoration.	
	Rich.	Extra rich.
<i>Height.</i>		
5 feet 8 inches.....	\$58.00	\$66.00
5 feet 4 inches.....	50.00	58.00
5 feet.....	43.00	53.00
4 feet 8 inches.....	37.00	44.00
4 feet 4 inches.....	32.00	38.00
4 feet.....	28.00	34.00
3 feet 8 inches.....	23.00	28.00
3 feet 4 inches.....	19.00	24.00

Duty-free prices.

PARAGRAPH 487—ALIZARIN.

Extracts from the catalogues of Mayer & Co., importers.

VIRGIN AND CHILD.

In Munich stone composition, decorated in white and cream, or delicate tints: No. 21A, 5 feet 2 inches, \$85; another model, No. 81F, 3 feet 7 inches, \$45.
Duty-free prices.

Extracts from the catalogues of Daprato Statuary Co., domestic manufacturers.

No. 28. Sacred Heart.	Style of decoration.	
	Rich.	Extra rich.
Height.		
7 feet.....	\$95.00	\$110.00
6 feet.....	60.00	70.00
5 feet 9 inches.....	53.00	63.00
5 feet 4 inches.....	46.00	54.00
5 feet 3 inches.....	44.00	53.00
4 feet.....	26.00	31.00
3 feet 9 inches.....	21.00	26.00
3 feet 6 inches.....	19.00	23.00

Extracts from the catalogues of the Bernardini Statuary Co., domestic manufacturers.

No. 8. Sacred Heart.	Style of decoration.	
	Rich.	Extra rich.
Size.		
6 feet.....	\$55.00	\$65.00
5 feet 4 inches.....	40.00	50.00
5 feet.....	35.00	45.00
4 feet.....	20.00	28.00
3 feet 10 inches.....	18.00	25.00
3 feet 4 inches.....	14.00	20.00

Extracts from the catalogues of Benziger Bros., importers.

No. 1007. Sacred Heart.	Style of decoration.	
	Rich.	Extra rich.
Height.		
7 feet.....	\$96.00	\$110.00
6 feet.....	67.00	74.00
5 feet 8 inches.....	58.00	66.00
5 feet 4 inches.....	50.00	58.00
5 feet.....	43.00	53.00
4 feet.....	28.00	34.00
3 feet 8 inches.....	23.00	28.00
3 feet 4 inches.....	19.00	24.00

Duty-free prices.

PARAGRAPH 487—ALIZARIN.*Extracts from the catalogues of Daprato Statuary Co., domestic manufacturers.*

No. 178. Our Lady of Lourdes.	Style of decoration.	
	Rich.	Extra rich.
<i>Height.</i>		
6 feet.....	\$60.00	\$70.00
5 feet 8 inches.....	55.00	65.00
5 feet 4 inches.....	46.00	55.00
5 feet.....	41.00	49.00
4 feet 8 inches.....	35.00	42.00
4 feet.....	26.00	31.00
3 feet 4 inches.....	17.00	20.00

Extracts from the catalogues of the Bernardini Statuary Co., domestic manufacturers.

No. 49. Our Lady of Lourdes.	Style of decoration.	
	Rich.	Extra rich.
<i>Size.</i>		
6 feet.....	\$55.00	\$65.00
5 feet 8 inches.....	50.00	60.00
5 feet 4 inches.....	40.00	50.00
5 feet.....	35.00	45.00
4 feet 8 inches.....	30.00	40.00
4 feet.....	20.00	28.00
3 feet 4 inches.....	14.00	20.00

Extracts from the catalogues of Benziger Bros., importers.

No. 1020. Our Lady of Lourdes.	Style of decoration.	
	Rich.	Extra rich.
<i>Height.</i>		
6 feet.....	\$67.00	\$74.00
5 feet 8 inches.....	58.00	66.00
5 feet 4 inches.....	50.00	58.00
5 feet.....	43.00	53.00
4 feet 8 inches.....	37.00	44.00
4 feet.....	28.00	34.00
3 feet 4 inches.....	19.00	24.00

Duty-free prices.

*Extracts from the catalogues of Mayer & Co., importers.***OUR LADY OF LOURDES.**

No. 84—6 feet 4 inches.....	\$98.00
No. 84B—4 feet 9 inches.....	69.00
No. 84F—3 feet 7 inches.....	45.00

Duty-free prices.

PARAGRAPH 487—ALIZARIN.

Extracts from the catalogue of Daprato Statuary Co., domestic manufacturers.

No. 370. Adoring Angels.	Style of decoration.	
	Rich.	Extra rich.
Height to top of wings, 3 feet 2 inches; base, 18 by 12 inches.....per pair...	\$38.00	\$48.00
Height to top of wings, 2 feet 10 inches; base, 16 by 9½ inches.....do.....	34.00	40.00
Height to top of wings, 2 feet 4 inches; base, 14 by 8 inches.....do.....	31.00	37.00
Height to top of wings, 6 inches.....do.....	1.50	2.50

Extracts from the catalogue of The Bernardini Statuary Co., domestic manufacturers.

No. 269. Adoring Angels.	Style of decoration.	
	Rich.	Extra rich.
Height, 3 feet 2 inches; bases, 18 by 14 inches.....price per pair...	\$38.00	\$45.00
Height, 2 feet 10 inches; bases, 16 by 12 inches.....do.....	34.00	40.00
Height, 2 feet 6 inches; bases, 16 by 10 inches.....do.....	32.00	38.00
Height, 2 feet 4 inches; bases, 14 by 8 inches.....do.....	30.00	36.00

Extracts from the catalogue of Benziger Bros., importers.

NO. 1082. ADORING ANGELS.

Height, 2 feet 8 inches to top of head; per pair, rich, \$61; extra rich, \$68.
 Measurement to top of wings is 3 feet. Duty-free price.

PETITION OF IMPORTERS AND MANUFACTURERS OF STAINED-GLASS WINDOWS.

THE COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: The undersigned, who are importers and manufacturers of stained-glass windows for the use of churches and other religious institutions, respectfully petition your committee to amend paragraph 716 of the tariff act of 1909 so as to permit of the free entry of stained-glass windows imported for presentation to churches. The provision as it now stands reads as follows:

"Works of art, productions of American artists residing temporarily abroad, or other works of art, including pictorial paintings on glass, imported expressly for presentation to a national institution or to any State or municipal corporation or incorporated religious society, college, or other public institution, except stained or painted window glass or stained or painted glass windows, and except any article in whole or in part molded, cast, or mechanically wrought from metal within 20 years prior to importation; but such exemption shall be subject to such regulations as the Secretary of the Treasury may prescribe."

If the word "including" be substituted for the word "except" preceding the phrase "stained or painted window glass or stained or painted glass windows," it will have the desired effect. This amendment will restore the privilege of free entry to church memorial windows as it stood under the Wilson tariff of 1894 (par. 686) and as it was accorded prior to the tariff act of 1890.

The words "stained or painted window glass" might very well be eliminated, so that the amended phrase will read, "including stained or painted glass windows." This will exclude opalescent or ornamental glass in sheets, as to which the houses who import stained-glass windows do not seek to compete with the American manufacturer.

The effect of the proposed change will be to permit the free entry of memorial and other windows presented to churches and other institutions of a religious or educa-

PARAGRAPH 487—ALIZARIN.

tional nature, at the same time leaving windows, imported directly upon the order of churches, dutiable at such rate as Congress sees fit to impose. In other words, the exemption extends only to windows which are gifts to churches, and is an encouragement to the donors of these artistic devotional works of art.

This matter has already been fully presented to your committee in the brief and argument filed in behalf of Messrs. Mayer & Co. (Tariff Hearings, 1913, first proof, pp. 472-479), to which we refer for a more detailed examination of the subject. We are satisfied that the proposed exemption will make no serious inroads upon the business done by domestic concerns, and that it will be in harmony with the liberal policy of Congress toward religious institutions.

Respectfully, yours,

MAYER & Co.,
 TYROLESE ART GLASS Co.,
 Per THEO. ROSE, Attorney.

**BRIEF OF THE AMERICAN COTTON MANUFACTURERS'
 ASSOCIATION, WEST DURHAM, N. C.**

WEST DURHAM, N. C., January 22, 1913.

Section 487: Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene.

Section 592: Indigo.

Hon. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means, Washington, D. C.

DEAR SIR: We respectfully petition that all of the above "fast colors" be left on the "free list" in view of the following facts:

From the standpoint of the southern colored cotton goods manufacturer this is quite an important matter. Twenty years ago practically no colored goods in "fast colors" were manufactured in the Southern States; development and self-interest have changed all this; for example, at least 85 per cent of the indigo denims (used for workmen's overalls) made in the United States are now manufactured by southern mills.

THE DEVELOPMENT IN THE SOUTH.

Without doubt an important factor in the development of the colored goods mills in the South has been the introduction and adoption of "fast colors"; in other words, the "fast colors" have made possible in the South the production of low-priced cotton fabrics of real worth. It is one thing to give a "fast color" fabric to a buyer of a \$5 custom-made shirt, but it is a much greater achievement to produce a fabric with the same "fast colors" for a workman's shirt that retails for 50 cents; this is no exaggeration; it is precisely what the industry is doing to-day.

THE ECONOMICAL ADVANTAGES.

The economical advantage of these "fast-color" fabrics to the consumer is very great; take, for example, two pieces of cloth made from the same grade of cotton and identical in every respect, except that one is dyed with indigo, alizarin, or any of the anthracene dyes (according to the color required) and the other with less permanent colors. Assume the age of the garment (say a pair of overalls, a man's or boy's shirt, or a woman's or child's dress) under normal household conditions to be six months; the "fast colors" outlast the fabric—that is, the cloth will be worn out from use and repeated washings without destroying the color; this means the full value of 100 per cent of the cloth.

On the other hand, garments made from cloths where less permanent or fugitive colors have been used are discarded after a few washings owing to the unsightly appearance of the garment with the result that the wearer realizes only a small percentage of what would otherwise be the full value of the cloth.

CLOTHING FOR OUR WORKING PEOPLE.

Our feeling, therefore, is that in the use of "fast colors" the southern colored cotton manufacturers have accomplished something worth while for the working people of this country, who are the wearer of our fabrics.

Taken as a whole, the colored cotton industry of the United States is now the largest producer of "fast-color" fabrics of any nation in the world.

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A good idea of the scope of fabrics in which these "fast colors" are used and the uses to which the fabrics are put in the making up of garments for working men, women, boys, and girls may be gathered from the exhibit placed before the Senate Finance Committee at the hearing accorded our association in March, 1912 (see attached report).

As will be observed these exhibits cover the whole range of colored cotton cloths used for clothing by the masses.

WHERE THE BURDEN WOULD FALL.

The question may be asked whether a duty of 10 per cent, as proposed in H. R. 20182, would fall upon the dyestuff manufacturers or upon the cotton manufacturers. The answer is, that we purchase our indigo and the various other fast dyes coming under section 487 under term contracts; prices charged being based upon free entry, we agreeing to pay any duty that may be imposed upon the merchandise during the age of our contract.

From this you will see that the duty, whatever it may be, would in the first instance fall upon the cotton industry and finally upon the consumer of our goods.

To complete the record of our effort we beg to refer to the attached:

(1) Copy of the testimony of our special committee of the American Cotton Manufacturers' Association before the Senate Finance Committee in March, 1912, protesting against the duty as proposed in H. R. 20182.

(2) Senate Bulletin, Report 636, part 2, "Views of a minority":

(a) On page 3 amend by striking out lines 3 and 4, which constitute paragraph 6, and read as follows:

"Alizarine, natural or artificial, and dyes derived from alizarine or anthracene, 10 per cent ad valorem."

(3) On page 10, line 16, strike out first word, "indigo".

"By these amendments the dyes which are used in coloring the cheaper cotton goods are left upon the free list, where they have been in previous tariff bills, and where, we think, they should remain in the interest of the consumer."

In the report of Committee on Ways and Means submitted with H. R. 20182:

"In revising duties of the chemical schedule the committee has given special attention to the textile industries for reasons similar to those which prompted action in revising the duty on products relating to the paper industry. The cotton and woolen manufacture industries are the largest consumers of chemicals in this country. It is specially desirable to reduce the duties of the chemical products in Schedule A used in the manufacture of textiles."

In Senate Bulletin, Report 636, part 2, "Views of a minority," page 3, paragraph 3:

"The manufacturers of woolen and cotton goods are the largest consumers of chemicals in this country, and in view of the fact that bills effecting large reductions in the duties upon woolen goods are now pending before Congress, which are soon to be followed by a bill reducing the duties upon manufactures of cotton, a reduction in duties upon chemicals used in the manufacture of both woolen and cotton goods should be made, as such chemicals are largely imported at a price increased by the duties."

We are in accord with the spirit of the contention on this score and respectfully petition for the retention of these "fast dyes" on the free list.

We have tried to make clear the reasons for our recommendation and venture the hope that your honorable committee may come to the view that they outweigh whatever argument prompted the proposal to take these materials off the free list.

Very respectfully,

AMERICAN COTTON MANUFACTURERS' ASSOCIATION,
By R. M. MILLER, Jr.,
Chairman, Committee on Tariff and Legislation.

[S. Rept. No. 636, pt. 2, 62d Cong., 2d sess.]

The undersigned, members of the Committee on Finance, to which was referred the bill H. R. 20182, entitled "An act to amend an act entitled 'An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes,' approved August 5, 1909," dissent from the report of the committee, and recommend that the bill do pass with the following amendments:

(1) On page 3 amend by striking out lines 3 and 4 which constitute paragraph 6 and read as follows: "Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene, ten per centum ad valorem."

PARAGRAPH 487—ALIZARIN.

(2) On page 10, lines 9 and 10, strike out the words "gum copal, one-half of 1 per cent per pound;" also on page 10, line 13, strike out the words "gum kauri and damar."

(3) On page 10, line 16, strike out the first word "Indigo."

(4) On page 12, line 25, strike out the words "and soya-bean," and on page 13, line 1, the first word "oil."

(5) On page 13, line 9, strike out the words "Chinese-nut oil."

(6) On page 17, line 21, strike out the word "twenty-five," and substitute in lieu thereof the word "fifteen," and on page 18, lines 1 and 2, strike out the word "twenty-five" and substitute therefor the word "fifteen."

(7) On page 21, after paragraph 78, insert as a new paragraph the following: "Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene, and indigo."

(8) On page 22, after paragraph 88, insert as a new paragraph the following: "Gum copal, gum kauri, and damar."

(9) On page 22, in line 25, after the word "petroleum," insert the following: "Soya bean oil and Chinese-nut oil."

By these amendments the dyes which are used in coloring the cheaper cotton goods are left upon the free list where they have been in previous tariff bills, and where, we think, they should remain in the interest of the consumer.

By amendment 7 the duty upon varnishes is reduced from 25 per cent ad valorem to 15 per cent ad valorem, it being evident from the testimony of manufacturers of varnishes at the hearings before the Finance Committee that such a reduction can be made without any injury to these industries, provided their imported raw materials are left upon the free list. In fact, they frankly admitted that the need for protection had very largely disappeared.

We recommend the passage of the bill with these amendments for the following reasons:

1. Because it furnishes a more scientific classification both as to subjects and as to rates of duty and makes a reduction in many of the rates of duty now too high and which were but slightly reduced by the tariff act of August 5, 1909, and because under it the duties laid more nearly approach a revenue basis without crippling any American industry.

It appears from the census reports of the manufactures of chemicals and allied products in 1910 that the value of the products manufactured by the 11,863 establishments engaged in the business was \$1,479,700,000; that the total wages paid was \$116,214,000, and salaries \$81,037,000, making the total of wages and salaries \$197,251,000, or 13.33 per cent of the value of the products. Deducting from the estimated imports given in the report of the Ways and Means Committee for the first twelve-month period of all the articles covered by H. R. 20182, \$96,770,850, the value of the imports that would come in free of duty by reason of the amendments proposed, \$8,285,800, would leave imports of the value of \$88,485,050, and deducting from the estimated duties upon imports given in the report of the Ways and Means Committee as \$16,120,097, the duties which would be collected on the imports which would come in free under the amendments, amounting to \$758,393, the duties collected under the schedule as amended would amount to \$15,362,304, making an average ad valorem duty of 17.35 per cent, which will more than cover the total labor cost and salaries. It can not be urged, therefore, that the reduction proposed by this bill will cause a reduction of the wages of those employed in these industries.

2. At the hearings before the Finance Committee in the first session of the Sixty-second Congress upon the act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," it was claimed by the manufacturers of pulp and paper in the United States that they would be at a great disadvantage in competing with the Canadian manufacturers because of the higher duties which they were compelled to pay upon the chemicals used by them. Under the provisions of this act, which went into effect upon its passage July 26, 1911, wood pulp and paper from Canada, when imported into this country free of any export duty or license fee, are admitted free of duty; and under the favored-nation clause in treaties other nations are now claiming admission of their pulp and paper into the United States free of duty. Already about 70 per cent of our total imports of wood pulp and paper from Canada enters the United States free of duty; and for the period of five months from August 1 to December 31, 1911, these importations, in the case of wood pulp mechanically ground, amounted to \$1,327,230, and of chemical pulp, bleached and unbleached, \$365,866. Under these conditions our paper manufacturers are entitled to relief, where it can be fairly given, by the reduction of duties upon chemicals extensively used by them, which H. R. 20182 does, as is shown by the following table:

PARAGRAPH 487—ALIZARIN.

Important chemicals used in paper manufacture and reduction in duty upon the same by H. R. 20182.

Articles.	Rate under—		Rate under—	
	Act of 1909.	Equivalent ad-valorem. ¹	H. R. 20182.	Equivalent ad-valorem.
Sulphuric acid, n. sp. f..	$\frac{1}{2}$ cent per pound	37.46	Free .....	.....
Alum, etc.	$\frac{1}{2}$ and $\frac{3}{4}$ cent per pound, according to content.	.....	15 per cent.	15.00
Chloride of lime.	$\frac{1}{2}$ cent per pound	24.81	$\frac{1}{10}$ cent per pound	12.53
Glue size	25 per cent.	25.00	1 cent per pound	15.00
Blanc-fixe	$\frac{1}{2}$ cent per pound	43.07	20 per cent ²	² 20.00
Chrome colors.	$\frac{4}{5}$ cents per pound	26.85	20 per cent ³	³ 20.00
Ochery and ochery earths.	$\frac{1}{8}$ to 1 cent per pound, according to class.	41.21	10 and 20 per cent, according to class.	10.00
Ultramarine	3 cents per pound	32.25	20 per cent ⁴	⁴ 20.00
Vermilion reds, not containing quicksilver.	$\frac{4}{5}$ cents per pound	19.11	25 per cent ⁵	⁵ 25.00
Potash:				
Bichromate of	2 $\frac{1}{4}$ cents per pound	30.30	1 cent per pound	13.50
Prussiate of—				
Red	8 cents per pound	43.07	2 cents per pound	10.75
Yellow	4 cents per pound	39.37	1 $\frac{1}{2}$ cents per pound	12.50
Soda:				
Sal.	$\frac{1}{2}$ cent per pound	23.64	$\frac{1}{8}$ cent per pound	18.00
Ash	$\frac{1}{2}$ cent per pound	22.36	do	11.35
Silicate of	$\frac{3}{8}$ cent per pound	39.53	do	13.89

¹ Computed on imports of 1911.

² But not less than $\frac{1}{2}$ cent per pound.

³ But not less than 3 cents per pound.

⁴ But not less than 2 cents per pound.

⁵ But not less than 4 cents per pound.

3. The manufacturers of woollen and cotton goods are the largest consumers of chemicals in this country, and in view of the fact that bills effecting large reductions in the duties upon woollen goods are now pending before Congress, which are soon to be followed by a bill reducing the duties upon manufactures of cotton, a reduction in duties upon the chemicals used in the manufacture both of woollen and cotton goods should be made, as such chemicals are largely imported at a price increased by the duties.

The following tables, compiled from reports of the Census Bureau, show the extent of the use of chemicals and dyestuffs in the manufacture of woollen and cotton fabrics

Cost of chemicals and dyestuffs used in all branches of the wool manufacturing industry.

[Compiled from reports of Census Bureau.]

Branch of industry.	1899	1904	1909
Woolen and worsted	\$6,595,000	\$7,457,000	\$8,821,000
Carpets and rugs	1,152,000	1,467,000	1,733,000
Hosiery and knit goods	1,023,000	1,677,000	2,542,000
Felt goods	128,000	190,000	220,000
Shoddy	111,000	142,000	137,000
Total	9,009,000	10,933,000	13,453,000

PARAGRAPH 487—ALIZARIN.

Summary of principal materials other than fibers used in the manufacture of cotton goods in the United States, by geographic divisions, 1889, 1899, 1904, and 1909.

Kind.	Year.	United States.	New England States.	Middle States.	Southern States.	Western States.
Starch:						
Pounds.....	1889	27,449,000	20,393,000	2,414,000	4,123,000	519,000
	1899	53,656,000	30,899,000	4,588,000	17,525,000	644,000
	1904	53,883,000	23,681,000	4,109,000	25,706,000	387,000
	1909	71,662,000	32,684,000	4,791,000	33,670,000	517,000
Cost.....	1889	\$916,000	\$709,000	\$84,000	\$109,000	\$14,000
	1899	\$1,224,000	\$753,000	\$104,000	\$354,000	\$13,000
	1904	\$1,492,000	\$731,000	\$115,000	\$638,000	\$8,000
	1909	\$2,117,000	\$987,000	\$177,000	\$940,000	\$13,000
Chemicals and dyestuffs, cost.....	1889	\$4,267,000	\$3,279,000	\$438,000	\$507,000	\$43,000
	1899	\$5,671,000	\$3,855,000	\$840,000	\$953,000	\$23,000
	1904	\$4,537,000	\$2,802,000	\$592,000	\$1,136,000	\$7,000
	1909	\$4,815,000	\$2,670,000	\$730,000	\$1,398,000	\$17,000

The changes in rates of duty made by H. R. 20182 in chemicals and dyestuffs used in the manufacture of woolen goods are shown by the following table:

Articles.	Rate under—		Rate under—	
	Act of 1909.	Equivalent ad valorem. ¹	H. R. 20182.	Equivalent ad valorem.
Acids:				
Acetic.....	$\frac{3}{4}$ cent and 2 cents per pound ²	16. 07	Free.....	.....
Oxalic.....	2 cents per pound.....	38. 83	$\frac{1}{4}$ cents per pound.....	25. 08
Bichromate of potash.....	$2\frac{1}{2}$ cents per pound.....	30. 30	1 cent per pound.....	13. 50
Hyposulphite of soda.....	$\frac{3}{4}$ cent per pound.....	18. 10	$\frac{1}{4}$ cent per pound.....	12. 50
Carbonate of soda (crystal).....	$\frac{1}{4}$ cent per pound.....	18. 01	$\frac{1}{4}$ cent per pound.....	9. 88
Logwood extract.....	$\frac{1}{4}$ cent per pound.....	15. 97	$\frac{1}{4}$ cent per pound.....	6. 85
Coal-tar dyes.....	30 per cent.....	30. 00	25 per cent.....	25. 00
Sulphuric acid.....	$\frac{1}{4}$ cent per pound.....	18. 10	Free.....	.....
Formic acid.....	25 per cent.....	25. 00	$\frac{1}{4}$ cents per pound.....	23. 08

¹ Imports of 1911.

² According to specific gravity.

A large amount of the dyestuffs used in American cotton mills is manufactured in Germany and other foreign countries, and hence the rates of duty on these imports are of prime moment to our cotton manufacturers.

Some of the important chemicals which are included in the large quantity used in the cotton industry and the changes in the duties proposed by H. R. 20182 are represented by the following statement:

Article.	Rate under—		Rate under—	
	Act of 1909.	Equivalent ad valorem. ¹	H. R. 20182.	Equivalent ad valorem.
Acids:				
Acetic.....	$\frac{3}{4}$ cent and 2 cents per pound ²	16. 07	Free.....	.....
Formic.....	25 per cent.....	25. 00	$\frac{1}{4}$ cents per pound.....	23. 08
Oxalic.....	2 cents per pound.....	38. 83	$\frac{1}{4}$ cents per pound.....	25. 00
Tannic acid.....	35 cents per pound.....	89. 52	4 cents per pound.....	10. 40
Caustic soda.....	$\frac{1}{4}$ cent per pound.....	20. 17	$\frac{1}{4}$ cent per pound.....	10. 00
Chloride of lime.....	$\frac{1}{4}$ cent per pound.....	24. 81	$\frac{1}{4}$ cent per pound.....	12. 53
Vegetable dyes.....	15 per cent.....	15. 00	$\frac{1}{4}$ cent per pound.....	10. 70
Logwood extract.....	$\frac{1}{4}$ cent per pound.....	15. 97	$\frac{1}{4}$ cent per pound.....	6. 85
Coal-tar dyes.....	30 per cent.....	30. 00	25 per cent.....	25. 00

¹ Imports of 1911.

² According to specific gravity.

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4. We fully approve the provisions of H. R. 20182, by which the duties are reduced upon drugs and medicines, as shown by the following table:

	Para- graph.	Act of 1909.	Para- graph.	H. R. 20182.
Calomel.....	65	35 per cent.....	16	15 per cent.
Medicinal compounds (alcoholic).	65	55 cents per pound ¹	18	10 cents per pound and 20 per cent up to 40 cents per pound and 20 per cent. ²
Other medicinal com- pounds.....	65	25 per cent.....	19	15 per cent.
Chloroform.....	14	10 cents per pound.....	20	4 cents per pound.
Drugs (manufactured).	20	$\frac{1}{2}$ cent per pound and 10 per cent.	28	10 per cent.

¹ But not less than 25 per cent.

² According to alcoholic content.

The bill is criticized in the report of the committee, because in certain instances the rates of duty are increased upon raw materials, while the rates are decreased upon the products manufactured from these raw materials, and some instances are cited. It will be found, however, upon an examination of these instances that a sufficient margin has been left to cover the manufacturing cost in each case.

BENZOIC ACID AND BENZOATE OF SODA.

Benzoic acid is transferred from the free list to the dutiable list, with a duty of 5 cents a pound by H. R. 20182, and the duty on benzoate of soda made from it reduced from 25 per cent to 15 per cent. No benzoate of soda is now imported, because the duty is prohibitive, and as it is used exclusively as a food preservative, which at present is discouraged, no hardship would seem to fall upon its manufacture because of this change in duties, nor would those engaged in it seem to be entitled to the fostering care of the Government under any theory.

PHTHALIC ACID AND PHENOLPHTHALEIN.

In the case of phthalic acid and phenolphthalein the import price of the latter is between \$1 and \$1.50 per pound, so that even at the lowest price it would pay a duty of 15 cents per pound, against the proposed duty of 5 cents upon the acid. Moreover, in its manufacture over 50 per cent of the raw material used is carbolic acid, which H. R. 20182 places on the free list. The colors made from phthalic acid will pay a duty of 25 per cent under H. R. 20182, which will afford a sufficient manufacturing margin.

ARGOLS OR CRUDE TARTAR AND CREAM TARTAR AND TARTARIC ACID.

H. R. 20182 increases the duty on argols or cream tartar from 5 per cent ad valorem to 10 per cent ad valorem, and upon tartaric acid and cream of tartar made from the same the duties are decreased from 5 cents a pound to 3 cents and $2\frac{1}{2}$ cents a pound, respectively. Argols or crude tartar, of which we imported 29,269,977 pounds in 1911, at a unit value of about 10 cents a pound, would at the proposed ad valorem duty of 10 per cent, bear a duty of 1 cent per pound, and as cream of tartar, which is made from argols or wine lees by refining, bears a duty of $2\frac{1}{2}$ cents per pound, the difference between the duty on the raw material and that on the finished product will about equal the manufacturing cost, as the process of refining is simple and inexpensive, and consists in boiling the argols in water, thereby separating the cream of tartar from impurities, and obtaining crystals of cream of tartar by evaporation. In this process tartaric acid is one of the by-products, and what has been said of the duty on cream of tartar applies to the duty on that. The present duty on both cream of tartar and tartaric acid is practically prohibitive.

COAL-TAR PRODUCTS AND COAL-TAR DYES OR COLORS.

Strong representations were made by several parties to the Ways and Means Committee in 1908-9 as to the advisability of placing a duty upon certain of the primary and intermediate coal-tar products. It was claimed that this country could now supply these products and would do so with slight protection, and that this would not increase the price to the consumer of the finished product. (See pp. 103-147, Tariff Hearings, Schedule A, 1908-9.)

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CAMPHOR, COLLODION, ARTICLES OF COLLODION.

While crude camphor is transferred from the free list to the dutiable list with a duty of 3 cents per pound by H. R. 20182, the manufacture of collodion is not affected thereby, because collodion contains no camphor. Camphor, however, does enter into the manufacture of articles of collodion, of which it constitutes about one-third by weight; the other articles used are nitric acid and sulphuric acid and cotton. As nitric acid and cotton are on the free list and sulphuric acid is placed there by this bill, a duty of 35 per cent ad valorem on articles of collodion or celluloid would seem to afford a large manufacturing margin. The average price of crude camphor imported in 1911 was about 30 cents per pound, and at this price the proposed duty of 3 cents per pound would be equivalent to an ad valorem duty of less than 10 per cent.

GUM CHICLE AND CHEWING GUM.

In the case of gum chicle and chewing gum at the hearing before the Finance Committee the manufacturers declared their willingness to pay a duty of 50 per cent ad valorem, which, at the price given in the imports for the last year, would be more than the duty proposed of 20 cents per pound. They wanted, however, the duty put on an ad valorem basis because they admittedly controlled the market and would be able to determine the price. In 1911 we imported 5,368,567 pounds of chicle, practically all of which was converted into chewing gum, and doubling the duty will have little or no effect upon this import and will yield over half a million dollars additional revenue. No chewing gum is imported. The Chicle Trust is certainly no object of justifiable commiseration.

IODINE AND POTASSIUM IODINE AND IODOFORM.

Potassium iodide contains 70.5 per cent iodine; iodoform, 95 per cent. There is therefore a large margin left to cover manufacturing differences. Neither potassium iodide nor iodoform is imported, nor are they likely to be under the reduced duty. The duty on iodoform was originally placed high on account of the alcohol used in its manufacture, and since the introduction of denatured alcohol in 1906 the high duty is no longer necessary.

COCA LEAVES AND COCAINE.

The duty on the leaves is increased from 5 cents per pound to 10 cents per pound, and on cocaine from \$1.50 per ounce to \$2 per ounce, a duty claimed by manufacturers and dealers to be prohibitive, which, in the case of a dangerous drug like cocaine, will assist in the regulation of its use. If the duty on the manufactured articles is made practically prohibitive, there should be an increased duty upon the leaves.

CITRATE OF LIME AND CITRIC ACID.

In 1910 we manufactured \$77,200 worth of citric acid and imported only \$9,940 worth, about 1½ per cent of our consumption. The duty of 7 cents a pound is clearly prohibitive. The duty of 1 cent a pound upon citrate of lime, which is easily manufactured, is equivalent to about 7 per cent ad valorem, while the duty upon citric acid is over 10 per cent ad valorem.

In replying to the criticism of the majority of the committee that this bill imposes a tax upon articles which can not be profitably produced in this country "without any compensation by way of encouragement of home industries," we reply that such a tax is a tax every cent of which goes into the Treasury of the Government and which every patriotic citizen will freely pay, knowing that, although a tax upon consumption, it is used for the maintenance of his Government and not to swell the profits of those who use the instrument of taxation for their own personal gains.

J. W. BAILEY.
F. M. SIMMONS.
WM. J. STONE.
JOHN SHARP WILLIAMS.
JOHN W. KERN.
CHARLES F. JOHNSON.

PARAGRAPH 487—ALIZARIN.

AMERICAN COTTON MANUFACTURERS' ASSOCIATION.

[Testimony before the Senate Finance Committee.]

Committee: W. A. Erwin, Durham, N. C.; Ceaser Cone, Greensboro, N. C.; T. H. Rennie, Pell City, Ala.

The CHAIRMAN. I believe you have the gentlemen here?

Senator OVERMAN. Yes; I have with me Mr. Erwin, from my State, and Mr. Cone. Mr. CONE. Gentlemen, I have some samples that I would be glad to show you.

The CHAIRMAN. The committee will be very glad to look at them.

Senator OVERMAN. Mr. Erwin will first address you, on behalf of the American Cotton Manufacturers' Association. Mr. Erwin is from West Durham, N. C.

Mr. ERWIN. I will request Mr. Cone to first present the samples, in connection with our presentation of this matter.

STATEMENT OF MR. CEASER CONE, OF GREENSBORO, N. C., REPRESENTING THE AMERICAN COTTON MANUFACTURERS' ASSOCIATION.

Mr. CONE. Mr. Chairman, and gentlemen of the committee: The samples I have here represent fabrics manufactured by mills, the officers of which are practically all members of the American Cotton Manufacturers' Association, which we represent.

Senator GALLINGER. Where are the mills located?

Mr. CONE. These samples we are displaying were all made in the South. Some were made in Virginia, some in North Carolina, and some in Alabama. They are all manufactured with dye, either anthracene or indigo. The samples are principally indigo-dyed fabrics.

Senator GALLINGER. What you are interested in, then, is the dye?

Mr. CONE. Yes, sir; the dye that is referred to in the bill H. R. 20182.

Senator GALLINGER. What paragraph is that, if you please?

Mr. CONE. It is on page 10, line 16, being paragraph 38, relating to indigo.

Senator GALLINGER. Yes; I see.

Mr. CONE. The fabrics which I am showing samples of are dyed principally with indigo. Over 50 per cent of the indigo that is brought to this country is used in the dyeing of these fabrics that I am showing you. I have samples of garments also made from these fabrics. All these fabrics are used in manufacturing clothing sold at low prices and used principally, in fact almost altogether, by working people.

Senator GALLINGER. What change is proposed to be made in the bill?

Mr. CONE. They propose to put 10 per cent duty on indigo.

Senator GALLINGER. What is the present duty?

Mr. CONE. There is none. It is free. There never has been any duty on it since we have been using it in our mill.

Senator SMOOT. There is not a pound of synthetic indigo made in this country.

Mr. CONE. No, sir; there is not a pound of synthetic indigo made in this country. There never has been any produced in this country in my time.

The CHAIRMAN. Would this duty add much to the cost of these articles to the workmen?

Mr. CONE. To give you an idea, sir, there are two mills in our association that we are representing here to-day that use about a quarter of a million dollars worth of indigo in a year. The present cost of indigo is about $7\frac{1}{2}$ per cent of the cost of the cloth. Take the garment—

The CHAIRMAN. What does a garment like that [indicating] sell for?

Mr. CONE. Pardon me, sir; the price is on it. That is a garment that the manufacturer sells at \$3.75 a dozen. That retails at 50 cents.

The CHAIRMAN. The duty would add another 25 per cent to the cost, would it?

Mr. CONE. It would add to the cost of the dyestuff.

The CHAIRMAN. That is what I said.

Mr. CONE. They propose to add 10 per cent to the cost of the dyestuff. The best garment made out of these fabrics retails for \$1.

Senator GALLINGER. Approximately what additional cost of the dyestuff would there be, so far as you are concerned?

Mr. CONE. The cost of the dyestuff is about $7\frac{1}{2}$ per cent of the cost of the fabric, and it would add 10 per cent to that $7\frac{1}{2}$ per cent.

Senator GALLINGER. Yes.

Senator HEYBURN. That is indigo?

Mr. CONE. Yes.

Senator HEYBURN. What substitute can you use for indigo?

Mr. CONE. I have never been able to find any.

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Senator HEYBURN. Then they could not manufacture the goods at all without the indigo?

Mr. CONE. There are substitutes, but they are not satisfactory. The workingmen who wear these garments put them to right hard use, and they have to wash them frequently. Indigo is the only dye we have ever found that was satisfactory for a cheap garment.

Senator HEYBURN. But they do use some substitutes?

Mr. CONE. Oh, yes, sir; there are substitutes used, but they have never been satisfactory.

Senator WILLIAMS. The experiment of trying to raise indigo in this country was tried long ago and abandoned, was it not?

Mr. CONE. That was before my time.

Senator WILLIAMS. They used to raise it in South Carolina and Louisiana.

Mr. CONE. Fifteen years ago, all the indigo we used in this country was a vegetable product, raised on the same principal as sugar cane; and it was manufactured in that way.

Senator HEYBURN. Where was it raised?

Mr. CONE. Principally in India. Most of the indigo used in this country formerly came from Calcutta. At present, and for the last 12 or 13 years, it has been manufactured synthetically and imported from Germany—practically all of it.

Senator HEYBURN. Explain for the record, that term "synthetically," in order that those who may read the record may have the benefit of it.

Mr. CONE. It is a coal-tar product, manufactured from coal tar.

Senator SMOOT. Ninety per cent of all the indigo used in the United States to-day is synthetic indigo, is it not—or 98 per cent?

Mr. CONE. It is probably more than 90 per cent.

Senator SMOOT. Ninety-eight per cent.

Mr. CONE. I have not the data on that.

Senator HEYBURN. Why do you call that indigo?

Mr. CONE. It has all the properties, so far as we have been able to ascertain, that the vegetable indigo has.

Senator HEYBURN. Still, it is a mineral product as compared with the indigo that we formerly imported.

Mr. CONE. I think so; yes, sir.

Senator GALLINGER. Why can we not manufacture that synthetic indigo in this country?

Mr. CONE. That I am not prepared to answer, sir, except to say this: I was on a trip abroad some years ago and took occasion to visit a factory where they make it, and I do not believe you would be able to find any one in this country who would have the nerve or the money to build and equip a factory to make it; and then, besides, I think the process of manufacture is covered by patents.

Senator SMOOT. That is the reason.

Mr. CONE. I think the people that manufacture it have been experimenting for more than a generation to reach the point of perfection that they have arrived at.

Senator HEYBURN. The raw material for the synthetic indigo is in this country?

Mr. CONE. That I do not know. I do not know that it would be found in sufficient quantities and at a price that would enable them to manufacture. I am not posted on that, but I imagine not, I would not say. I am not an authority on that.

Senator HEYBURN. You say there is not enough of that by-product of petroleum, coal oil, in this country to form the basis of manufacturing it?

Mr. CONE. I have some doubt about that, sir. I am not posted on that. I can not answer authoritatively because I am not posted.

Senator WILLIAMS. At any rate, if a new industry were to be built up in that way, it would be built up for a time at your expense as a manufacturer?

Mr. CONE. I think so, and I think we would have to put a much heavier duty on it. If the idea of putting on duty is to encourage some one in this country to make it, then we would have to start out with a much heavier duty than 10 per cent. It would be, in my opinion, a tax either on the user of the indigo or the user of the cloth in which it is used.

Senator HEYBURN. What are you in favor of? Are you in favor of maintaining the present duty, increasing it, or diminishing it?

Mr. CONE. There is no duty now. We are in favor of letting it remain just as it is. The indigo constitutes a very large percentage of the cost, as I explained a while ago, of manufacturing these cheap goods. We are making goods to-day that cost, at the present price of cotton, a little less than 20 cents a pound.

Senator HEYBURN. Are you in favor of changing the tariff rate on indigo?

Mr. CONE. We are in favor of letting it stay as it is. There is no duty.

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Senator HEYBURN. Then you are not in favor of a duty?

Mr. CONE. No, sir.

Senator HEYBURN. Are you in favor of a change in the tariff rates on this coal-tar product that you have talked of?

Mr. CONE. I have not studied the question.

Senator HEYBURN. What is the proposition that involves the cost of this article?

Mr. CONE. They propose to add 10 per cent duty on indigo.

Senator HEYBURN. Are you in favor of it?

Mr. CONE. No, sir; I am opposed to it.

Senator HEYBURN. That is what I was trying to get at.

Mr. CONE. As I started to explain, Mr. Chairman and gentlemen, we are manufacturing these goods, and we use indigo in connection with the manufacture. Here is a fabric on which we are paying to-day 11 cents a pound for cotton, and the cost of producing these goods is about 20 cents a pound. The indigo represents very nearly 10 per cent of the cost of the goods.

Senator HEYBURN. What is the weight of that article?

Mr. CONE. A yard of this goods weighs about 8 ounces or half a pound.

Senator HEYBURN. How much does the garment weigh?

Mr. CONE. That garment weighs—let me see: There are about 4 yards in that. It takes about 2 pounds of cloth, counting the waste of clippings. There are about 2 pounds of cloth in that garment; at least $7\frac{1}{2}$ per cent of that weight was indigo.

Senator HEYBURN. How much is the indigo worth that is in that garment?

Senator WILLIAMS. You mean $7\frac{1}{2}$ per cent of the value is indigo.

Mr. CONE. Well, the cloth in that garment weighs about 2 pounds, the cost of manufacturing, to produce the goods, is about 40 cents; so that would mean $7\frac{1}{2}$ per cent of 40 cents, which is about 3 cents, or possibly a little bit more.

Senator HEYBURN. How many people in this country are engaged in making that article and other articles of the same material?

Mr. CONE. Do you refer now to the cloth or the—

Senator HEYBURN. How many people are engaged in making it?

Mr. CONE. Do you refer to the cloth or the garment?

Senator HEYBURN. The garment.

Mr. CONE. Do you mean the proprietors or the laboring people?

Senator HEYBURN. I mean the people who are doing the work.

Mr. CONE. They run up into the hundreds of thousands.

Senator HEYBURN. Can you give it approximately? That comes closer to the working people of this country than all the other articles that we deal with, so let us get some real facts about it.

Mr. CONE. There are factories all over the United States.

Senator HEYBURN. How many employees are there engaged in making the garments?

Mr. CONE. I would have to make a wild guess at that, sir.

Senator HEYBURN. Is there somebody here who knows?

Mr. CONE. I would have to make a very wild guess, because I have never manufactured any of the clothing; there are factories in every State in the Union—

Senator HEYBURN. Yes; we have one in our State.

Mr. CONE. There are some very large factories on the Pacific coast—one of the largest factories in the country. There are factories at Los Angeles, San Francisco, Portland, and Seattle, and then as far east as Portland, Me., and through the intermediate country, the Missouri River country. They run into hundreds of thousands.

Senator HEYBURN. How many hundreds of thousands?

Mr. CONE. I should say probably 200,000 or maybe 300,000.

Senator HEYBURN. Is it not a fact that there are nearly half a million people engaged in the making of these garments?

Mr. CONE. I think probably there are, sir.

Senator HEYBURN. How many are engaged in making the cloth?

Mr. CONE. In making the cloth, I suppose there are possibly in the neighborhood of 60,000 to 75,000 people. Do you refer to this identical cloth [indicating]?

Senator HEYBURN. I refer to the character of cloth that is used for overalls for workmen.

Mr. CONE. I guess there are 75,000 to 100,000 people, possibly.

Senator HEYBURN. Do you think that would cover it?

Mr. CONE. I do not know. There are no statistics at hand.

Senator HEYBURN. We want to know how many people would be put out of employment if these garments and the cloth were made abroad, who are now employed in this country by reason of the opportunity that that affords.

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Mr. CONE. I think that all over the United States there is not a town of any consequence that does not have an overall factory.

Senator HEYBURN. That is true.

Mr. CONE. It would be very difficult for me, unless I had some information, to speak intelligently of that.

Senator HEYBURN. I would suggest that the interest you represent would do well to bring that information in, because it is the basic information upon which the tariff question should be considered in regard to this class of articles.

Mr. CONE. I can get that information for you, sir. I would be very glad to do it.

Senator HEYBURN. The question is, how many people would be put out of employment in this country if this work were done abroad. That is the underlying question.

Mr. CONE. I will be glad to get it for the committee.

Senator HEYBURN. We have protective tariffs for the purpose of protecting those who labor here against not only competition but idleness, because of the articles being made abroad.

Mr. CONE. In North Carolina alone, I should say, we have at work on that class of goods probably 12,000 or 15,000 people.

Senator HEYBURN. We save the freight on the transportation of the raw material abroad and on the finished product back again. We save wages to our own American people, whatever their race or nationality may be. We save the money that would be paid abroad for the by-products, you might call them, of the article. So it is very important to know how much is represented by the labor, I would like to know.

Mr. CONE. There is one fact that I can give you, sir. I have the figures here. I can give you the cost of labor per pound in manufacturing those goods if that would give you any idea——

Senator HEYBURN. When we come to talk to the average citizen he does not want to do the lead-pencil work. He wants to have it done for him; but if you can give the result it would be very appropriate.

Mr. CONE. I am very sorry that I have not those statistics.

Senator WILLIAMS. Have you any idea that a tax of 10 per cent upon indigo would drive the making of these goods abroad?

Mr. CONE. That I do not know, sir. I was in London last year——

Senator WILLIAMS. Are many of these goods imported into the United States?

Mr. CONE. None that I know of.

Senator WILLIAMS. Blue jeans?

Mr. CONE. None that I know of.

Senator WILLIAMS. Are they exported from the United States?

Mr. CONE. Some are.

Senator WILLIAMS. A great many are, are they not?

Mr. CONE. I would not say a great many. I do not think the United States exports this character of fabric; I do not suppose they export 2½ per cent of their production.

Senator WILLIAMS. Do you know what the exports amount?

Mr. CONE. I have not the figures at hand; no, sir. There are a few of these goods exported at times.

Senator WILLIAMS. Give me your judgment, because I have some degree of confidence in it. Of course, I am opposed to putting duties on anything where I can avoid it unless the necessity of the Treasury requires it; but have you any idea, honestly, that putting this duty on indigo would drive the manufacturing of these goods out of the United States?

Mr. CONE. I do not know that it would drive them out.

Senator WILLIAMS. Do you really fear that it would?

Mr. CONE. Well, I do not know that I do, sir. The only fear that we have is in consequence of our experience of the last three years, when the high price of cotton put a great many people out of business. It shut down a great many mills making these goods. It shut down a great many overall factories. We know that.

Senator WILLIAMS. Yes.

Mr. CONE. Anything that tends to raise the price of any article interferes with its consumption.

Senator WILLIAMS. That is undoubtedly true, and to a certain extent it restricts its production because it restricts its sale.

Mr. CONE. We have always found that when prices go up business goes down. That has been our experience, especially in these coarser, heavier goods. It makes some difference to the workman. There [indicating] is a garment that retails now for 50 cents. The manufacturer of the cloth and the manufacturer of the garment can make a small profit; and the garment can be retailed over the counter at 50 cents.

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Here is the history of it; the manufacturer gets \$3.75 a dozen for this. He sells it to the wholesaler, who in turn sells it to the retailer. He goes into the highways and the byways and sells it.

Senator HEYBURN. Who makes that?

Mr. CONE. That is made by a man by the name of Teitz, in New York.

Senator HEYBURN. Is that made by women sewing in their own homes or shops?

Mr. CONE. I think this manufacturer has a large place, a loft, and has his workmen all there in his place.

Senator HEYBURN. Is that what is called a sweatshop?

Mr. CONE. I do not think it is a sweatshop; no sir. This man's place is on White Street, New York. That garment retails at 50 cents. When the price got up so that it had to go out as a 60-cent garment when the prices were very high last year, the trade broke down. It was as if it were cut with a knife. The trade broke down. They said they would not pay 60 cents for the garment; that if they could not get it for 50 cents, they would not buy it. I simply mention that to show how a little difference in the price influence the consumer. I think that is about all I have to say.

Senator WILLIAMS. You are engaged in the business of manufacturing the cloth are you not?

Mr. CONE. Yes.

Senator WILLIAMS. And not in the making of the garments.

Mr. CONE. I am engaged in the manufacture of the cloth.

Senator HEYBURN. Do you manufacture the brown canvas too?

Mr. CONE. No, sir.

Senator HEYBURN. You manufacture just the blue?

Mr. CONE. The blue, that is all. We also manufacture this stripe material [indicating].

Senator HEYBURN. I know. I referred to the brown canvas.

Mr. CONE. No, sir; we do not manufacture that, at least, I do not.

The CHAIRMAN. Is there anything further you wish to say to the committee?

Mr. CONE. Nothing at all. I am very much obliged to you.

STATEMENT OF MR. W. A. ERWIN, OF WEST DURHAM, N. C., REPRESENTING THE AMERICAN COTTON MANUFACTURERS ASSOCIATION.

The CHAIRMAN. Please state your full name to the committee.

Mr. ERWIN. W. A. Erwin.

The CHAIRMAN. Where do you reside?

Mr. ERWIN. I reside at West Durham, N. C.

The CHAIRMAN. Whom do you represent?

Mr. ERWIN. I have the honor of being the vice president of the American Cotton Manufacturers Association, and chairman of this humble committee.

If permitted, I will read in your hearing, gentlemen, a paper that we desire to leave with you, signed by the committee. It will present some facts that I think you gentlemen would like to hear; and I will not detain you very long with further remarks. [Brief was read.]

Now, gentlemen, we will not burden you with many further remarks on this subject, but we would like to say that we hardly feel your minds need be refreshed as to the fact that cotton milling, one of the greatest industries in this country, for the past four years, within your own sight and observation, has suffered to an enormous extent. It has paralyzed a great industry. It has put out of work and made to suffer not only the men, women, and children actually engaged in operating the cotton mills, but every other class of labor employed in the cutting and manufacture of garments.

Senator GALLINGER. Was that largely due to the high price of cotton?

Mr. ERWIN. That was largely due to the high price of cotton, at least we think it was. There are other things, however, that have entered in, and when the high price of cotton came, and when our industry was very much hampered in consequence, we found that the people either could not or did not buy the garments; and the cloth that we manufactured in our mills, which is dyed very largely by indigo and the colors coming from the coal-tar dyes—

Senator HEYBURN. You think it reduced the profits of the manufacturers considerably, do you?

Mr. ERWIN. Reduced the profits of the manufacturers?

Senator HEYBURN. Yes.

Mr. ERWIN. It has seemed to us that if the burdens put upon the manufacturers during the last four years are to be taken for anything, and we can only judge the future by the past, it would fix us so that we could not run probably at all.

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Senator HEYBURN. That would defeat the purpose of this new system of paying the expenses of the Government out of the income tax, would it not?

Mr. ERWIN. How is that?

Senator HEYBURN. That would utterly defeat the proposed system of maintaining this Government out of the income taxes. If you have no incomes, you would not pay any taxes.

Mr. ERWIN. I do not know but that it would be safer for our association to guard against complications. I do not know that we could properly enter into that.

Senator HEYBURN. That is merely a suggestion that occurs to me.

Mr. ERWIN. I am sure you could handle that on the Senate floor better than I could handle it before this committee. [Laughter.]

Senator HEYBURN. We will have to take our chances on that. I will probably have to handle it there.

Mr. ERWIN. I am sure, sir, that you will.

Now, gentlemen, Mr. Cone has brought forcibly before you a subject that is very near our hearts, and that is the question of a fabric known as denims. He has, perhaps, left it to me to talk a little bit on a subject that I am sure you will hear me on, and that is this: Mr. Cone forgot, if he intended to do it, to tell you that denims are not in it alongside of a whole lot of garments like these [indicating]. A man has one pair of overalls, and if he is decent, he ought to have many shirts to wear with the pair of overalls. Here are the shirts [indicating]; and here are the fabrics that go into the shirts [indicating]. You talk about the number of people employed, Senator, in making overalls. Why, so many more are employed in the manufacturing of the shirts—

Senator HEYBURN. I intended to include both. I said "Garments."

Mr. ERWIN. Yes. I beg your pardon, sir. Here is a child's garment [indicating]. Here is a fabric right here that goes into everything except children's clothing and shirts, known as chambrays and cheviots, manufactured all over the country. You would be astonished at the extent of the manufacture. There is one factory, perhaps, manufacturing denims and another factory manufacturing this class of goods [indicating]. I hope you will not ask me, Senator, how many are employed in that business. I am sure you will be content to know that there are hundreds of thousands, and we believe that is enough; but the number of people employed in the manufacture of these goods indicate nothing and means nothing in comparison to the hundreds and hundreds of thousands, and I believe I might say safely, millions who wear the garments.

Senator HEYBURN. The important question is in connection with those engaged in making them, because if they were not making those goods or that cloth, the inquiry arises, What would they be doing to earn a livelihood?

Mr. ERWIN. It pleases us very much to know that you desire to protect us to the extent of being able to exist, but I think further on you will protect the women and children all over the country who go to church in dresses made of these materials here; and that small additional cost, gentlemen, means much to them.

Senator HEYBURN. They would not be able to go to church if they did not earn something to feed themselves so that they would be strong enough to walk there. They would not be strong enough to walk to church if they did not earn something to feed themselves with.

Mr. ERWIN. I hope our committee can succeed in this hearing, Mr. Chairman and gentlemen, in impressing upon you that all of the burden put upon the manufacturer, means a burden upon the cutters, it means a burden upon the people who actually work in the sweatshops that you referred to—because many of these goods are made in the sweatshops—it means a burden that is not centered at one spot. While a great many of these mills are in New England and in the South, the people who cut the garments are distributed, and have wide distribution all over this country, and the output from these shops has a still wider field. While $7\frac{1}{2}$ per cent may seem to you an insignificant thing in the cost of the manufacture of these goods, and 10 per cent on that may seem a small thing—

Senator HEYBURN. You may not probably have understood it, but I am a protective tariff man, and what I ask you is in the line of laying a foundation for facts upon which to argue for a protection of every necessary kind to the American people and the American market. [Applause.]

Mr. ERWIN. We are very glad to have that kind of expression from you. We are sure you will make your voice heard along that line, and we are glad to be so much encouraged.

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Senator WILLIAMS. I hope you will allow one member of the committee to say that he is glad to hear you speak up for the consumer, and to have you call attention to the fact that the poor men, women, and children of this country who have to buy these clothes will have to pay more for them if this tax were put on.

Mr. ERWIN. I felt sure, sir, that I would claim your attention on that line. [Laughter.]

Senator HEYBURN. Just there, I might make this suggestion. That these people for whom Senator Williams is solicitous and for whom I am solicitous wear these garments while they are earning their living making this class of garments which they wear, so they are both producers and consumers.

Mr. ERWIN. I am glad to have that broad interpretation of it from you, sir.

Senator WILLIAMS. These clothes or something like them are worn by every darky on every southern cotton plantation, are they not—these blue-jean overalls?

Mr. ERWIN. I think the black ones and the yellow ones and the white ones all wear them. [Laughter.]

Senator WILLIAMS. The carpenters, the blacksmith, and the brick mason all wear them; and these shirts are worn by the children of the workingmen and women all over the country.

Mr. ERWIN. Senator, they wear better than anything else.

Senator WILLIAMS. That is what I say.

Mr. ERWIN. They wear them, first, because they are the cheapest garment they can wear—

Senator WILLIAMS. And the people who work in the cotton factories do not wear any more of them than the working people outside of the cotton factories, do they?

Mr. ERWIN. How is that?

Senator WILLIAMS. The people who work in the cotton factories do not wear any more of them than the working people outside of the cotton factories, do they?

Mr. ERWIN. There are not nearly so many people in the mills to wear them.

Senator WILLIAMS. So that this is a tax which, to whatever extent it might raise the price of the product, would affect the poorer classes of working people in and out of the factories all over the United States.

Mr. ERWIN. Unquestionably, sir—unquestionably.

Senator HEYBURN. And if the factories were to close down, I suppose that those people outside would wear cotton sacks, like they used to, would they not?

Mr. ERWIN. I would not like to say that, sir. I think they would starve their stomachs a little bit down my way, and try to present a respectable front at all hazards.

Senator HEYBURN. But suppose they were not manufactured, where would they get them? You say you are right at the limit now of manufacturing? Suppose you passed the limit, and could not manufacture them. What would these people wear? Would they wear broadcloth?

Mr. ERWIN. They will wear patched clothes, sir.

Senator HEYBURN. But that is only for a little length of time. What will they wear when the patches predominate? Will they wear broadcloth then?

Mr. ERWIN. I should like to say to you, gentlemen, that the women and children in the coal fields, as well as the men digging in the mines, are among the very largest consumers of these goods; not only the shirts but the overalls. They are very large consumers of them in West Virginia, Pennsylvania, Ohio, and all over those parts of the United States. They are some of the very largest consumers of the goods. And strange to say, the people working in the cotton fields, the negroes and the white people as well, have found that this is the cheapest and best looking garment they can wear. Why, gentlemen, here is a fabric, and you will be astonished to see what a handsome piece of goods it is. That piece of goods, at retail, sells over the counter, dyed with indigo, for 7½ cents.

Senator GALLINGER. That would make a good vest to go with a tuxedo. [Laughter.]

Mr. ERWIN. Yes, sir. Here is a garment that is known as a gingham. Now, you have asked if there is any substitute for indigo in dyeing these goods. Why, pardon me for going over somewhat the questions that you asked Mr. Cone, but there is a substitute. Mark you, the only additional cost is the dye, you see. The same carding and the same spinning and the same weaving go into the goods in any event. If you fix it so that you can not put a good substantial color in the garment, it seems a shame; and much of that has been done, Senator, heretofore, to try to cheapen it.

Senator WILLIAMS. Any other cheap blue dye except indigo runs, does it not?

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Mr. ERWIN. Except a very expensive one.

Senator WILLIAMS. I say, any other cheap blue dye except indigo runs?

Mr. ERWIN. Yes, sir. It is fugitive; it goes away with the sunlight as well as with the wash.

Senator HEYBURN. It will last until they get out of the—

Mr. ERWIN. Perhaps. [Laughter.] And that is a point that we would like you to bear in mind, gentlemen, as affecting the people who wear these cheap fabrics—the shirts and the overalls and the dresses and the bonnets and every conceivable kind of garment that the people do wear. We believe, gentlemen, and I will say I know that some of my neighbors have been driven to manufacture this class of goods and this class of goods [indicating samples] out of a cheaper dye.

Senator HEYBURN. What is that cheaper dye?

Mr. ERWIN. It is known in a general sense as aniline dyes.

Senator HEYBURN. How much cheaper than indigo is that?

Mr. ERWIN. It is a good deal cheaper. But the trade now, Senator, has gotten to the point where they say: We will not have your goods unless they are dyed in this way because they are not satisfactory, and we, as manufacturers, do not desire to give them these cheaper dyes. We greatly prefer to give them a fast dye. We want you gentlemen to help us to do it. To treat the poor people that wear these garments right. That is what we are here to ask you for. It has always been on the free list and we ask you to let it stay there.

Senator HEYBURN. Those fast dyes will not come out on the body because of perspiration or anything of that kind; but the cheap dyes will? I suppose that is one difference.

Mr. ERWIN. That is one difference; yes, sir.

Senator HEYBURN. And the other is that the cheap dye will disappear and you will have merely a dirty-looking garment?

Mr. ERWIN. It fades with the sunlight as well as with the wash. You know they are using some curious sorts of compounds now to wash with when they get in a hurry, and it will simply strip the garment of the color, almost.

Senator HEYBURN. Are any of these pieces of cloth here dyed with aniline dyes?

Mr. ERWIN. No, sir.

Senator HEYBURN. These are all fast dyes?

Mr. ERWIN. Yes, sir; and while I do not manufacture all of these—only a very few of them—I will guarantee, upon the statements of my brothers in arms, that they will stand the acid test. Put muriatic acid on it, and it will turn yellow.

Senator HEYBURN. They will not crock at all? They term it “crocking” among the practical men when the color comes out. It colors the skin.

Mr. ERWIN. Yes, sir. I hope you will not embarrass me now by letting me know that you, an old manufacturer, know more about this business than I do.

Senator HEYBURN. I am not an old manufacturer, but I have spent some thousands of dollars in buying this kind of stuff, and have had men wearing it for about 30 years, so I have some knowledge on the subject.

Mr. ERWIN. I am not familiar with that term, Senator; but they call it “fast” and “fading” and that sort of thing.

Senator HEYBURN. There is a class of this material that comes into the mines and is sold much below the price of a better article; and when the men go into a wet mine wearing these garments and come out their skins are blue. It has crocked because of the perspiration.

Mr. ERWIN. I will tell you that some time ago I had to send out some ticking made with aniline dyes, and it went away out West somewhere, where it was cut up into bathing suits, suits with very broad stripes; and after some of the boys came out after wearing these suits they found that they had left all the stripes right on their backs.

Senator HEYBURN. They only had to buy one suit then. [Laughter.]

Mr. ERWIN. Just as they came out of the water, it was said that some policemen came along, and, seeing their stripes, immediately took charge of them. That was in Chicago.

Senator HEYBURN. You are referring to Chicago as “away out West,” are you? I just want to locate your geography.

Mr. ERWIN. I think the garments were made farther out West and shipped over to Chicago for sale.

Now, gentlemen, I am very much obliged to you for hearing us on this subject. If there is any question that we can answer that you would like to ask, we shall be glad

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to answer it. We do not want to burden you with and take up too much of your time. We hope at least the facts presented by Mr. Cone will impress you with how wide a distribution these goods have, and how wide a consumption they have; and we sincerely trust and feel in looking at you, gentlemen, that if it were left to you the thing would be settled now, but since you have to thrash it out, if there is anything else we can give you to help to do it we are very glad, indeed, to do it.

I believe that is all you want to hear from me. If there are any questions you want to ask, I shall be glad to answer them. I am very much obliged, Mr. Chairman and gentlemen, for this hearing.

The CHAIRMAN. Senator Overman, have you anything more?

Senator OVERMAN. I think that is all.

MEMORIAL AND PROTEST IN OPPOSITION TO H. R. 20182, SUBMITTED TO SENATE
FINANCE COMMITTEE BY MR. GREEN, PROVIDENCE, R. I.

Paragraph 6. Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene, 10 per cent ad valorem.

Paragraph 38. Indigo, indigo extracts or pastes, and indigo carminated, 10 per cent ad valorem.

The honorable SENATE FINANCE COMMITTEE,
Washington, D. C.

GENTLEMEN: Your memorialists, cotton manufacturers, makers of colored cotton fabrics, both for men's and women's wear, respectfully submit.

The present tariff law provides under the free list:

Paragraph 487. Alizarine, natural or artificial, and dyes derived from alizarine or from anthracene.

Paragraph 592. Indigo (meaning vegetable and synthetic).

We desire to protest against the taking of these from the free list and placing them on the dutiable list, for the following reasons:

(a) It increases the cost of manufacturing colored cotton goods in the United States.

We quote the following from report from Committee on Ways and Means submitted with H. R. 20182:

"In revising duties of the chemical schedule, the committee has given special attention to the textile industries, for reasons similar to those which prompted action in revising the duties on products related to the paper industry. The cotton and wool manufacturing industries are the largest consumers of chemicals in this country. It is specially desirable to reduce the duties on the chemical products in Schedule A used in the manufacture of these textiles."

This statement is quite in accord with the needs of the textile industry, but the act of taking these materials from the free list and placing them on the dutiable list would naturally have the opposite effect, for obviously it would increase the cost of manufacture by just this amount.

(b) An increase in the cost of these materials means, therefore, an increase in the price of colored cotton goods to the consumers in the United States. This is the first time in the history of the tariff legislation, as touching these articles, that a duty has ever been imposed upon these most important dyestuffs. They were on the free list under the various acts of 1883, 1890, 1894, 1897, and 1909. They are not now and never have been manufactured in the United States, so that there is no question of protection of any American industry involved.

(c) Standard of American colored cotton goods. The color standard of textiles is higher in the United States than in any other country in the world, and particularly so as regards the lower priced cotton fabrics for the masses, such as denims, used for workmen's overalls, and gingham, prints, etc., for women's wear. This condition, so favorable to this country, has been brought about very largely by the free entry of these fast colors since 1883. The reversal of this policy, after nearly 30 years, would indeed mark a backward step for the cotton industry.

(d) In the case of export trade, an advance in the cost of any of our raw materials adds to our burden and minimizes our opportunity to compete with foreign manufacturers in foreign markets,

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We petition that for these reasons indigo, as well as alizarine and anthracene dyes, be left upon the free list and that no change be made in these schedules from the present law.

Very respectfully,

American Printing Co., Fall River, Mass.; United States Finishing Co., New York, N. Y.; Apponaug Co., Apponaug, R. I.; The Garner Print Works & Bleachery, New York, N. Y.; Arnold Print Works, North Adams, Mass.; Windsor Print Works, North Adams, Mass.; Renfrew Manufacturing Co., North Adams, Mass.; Passaic Print Works, Passaic, N. J.; Liondale Bleach, Dye & Print Works (Inc.), Rockaway, N. J.; Algonquin Printing Co., Fall River, Mass.; Barnaby Manufacturing Co., Fall River, Mass.; Seaconnet Mills, Fall River, Mass.; Mount Hope Finishing Co., North Dighton, Mass.; Solway Dyeing & Textile Co., Pawtucket, R. I.; S. H. Green Sons Corp., Riverpoint, R. I.; Cranston Print Works Co., Cranston, R. I.; Southbridge Printing Co., Sandersdale, Mass.; S. Slater & Sons, Webster, Mass.; Glenlyon Dye Works, Salysville, R. I.; Nelson D. White & Sons, Winchendon, Mass.; White Brother, East Jaffrey, N. H.; Beacon Manufacturing Co., New Bedford, Mass.; Falls Co., Norwich, Conn.; Shetucket Co., Norwich, Conn.; Boston Manufacturing Co., Waltham, Mass.; Whittenton Manufacturing Co., Taunton, Mass.; Waltham Bly. & Dye Works, Waltham, Mass.; Le Roy Cotton Mills, Le Roy, N. Y.; Appleton Co., Lowell, Mass.; Bates Manufacturing Co., Lewiston, Me.; Cochrane Manufacturing Co., Malden, Mass.; J. L. Stifel & Sons, Wheeling, W. Va.; Massachusetts Cotton Mills, Lowell, Mass., and Lindale, Ga.; Merrimack Manufacturing Co., Lowell, Mass.; Great Falls Manufacturing Co., Great Falls, N. H.; Aberfoyle Manufacturing Co., Chester, Pa.; Galey & Lord Manufacturing Co., Chester, Pa.; Hope Mills Manufacturing Co., Hope Mills, N. C., and Philadelphia, Pa.; Parkhill Manufacturing Co., Fitchburg, Mass.

BRIEF OF THE BADISCHE CO., NEW YORK, N. Y.

BADISCHE CO., 128 DUANE STREET,
New York, January 28, 1913.

To the honorable COMMITTEE ON WAYS AND MEANS,
Washington, D. C.

GENTLEMEN: The purpose of this letter is to briefly call your attention to two paragraphs on the free list: Section 487, alizarine, natural or artificial, and dyes derived from alizarine or from anthracene; section 592, indigo (meaning vegetable and synthetic.)

We sell these products to the cotton, woolen, paper, leather, and paint industries in the United States; we make long-period contracts and import against these contracts; the attached pro forma contract shows the obligation incurred by the buyer in making these contracts.

All these fast dyes have been on the free list under the tariff laws of 1883, 1890, 1894, 1897, and 1909. They are not manufactured in the United States and never have been and there is no question of protection involved. They were originally put upon the free list for a definite and specific purpose and they have been kept there for 30 years for like reasons.

The object of putting indigo, alizarine, and anthracene dyes on the free list was to enable the textile industry of the United States to produce coarse goods which were, so far as durability of color was concerned, equal not only to textile fabrics made in other countries but the highest grade of textiles made here.

The object of the manufacturers of these fast dyes was, from the very beginning, to place them within reach, as to cost, of the manufacturers of coarse cotton goods, for in no other way could a large consumption be secured.

To show how this end was finally reached we might instance the selling prices of indigo:

In 1894 it was 72½ cents per pound f. o. b. New York; in 1896, 37½ cents; in 1898, 31 cents; in 1899, 28 cents; in 1909, 18 cents; in 1912, 16½ cents.

These low prices coupled with free entry brought about the result that was originally intended, i. e., the general use of fast colors for coarse goods.

The benefits derived from this might be summarized as follows: (1) Enabling the colored-goods cotton industry of the United States to produce coarse colored fabrics

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suitable for the masses in colors as fast to light, washing, and wear as can be found in the finest goods obtainable anywhere in the world, and (2) enabling the cotton manufacturer to better serve the consuming public and particularly that large portion able only to buy coarse fabrics.

It should be remembered that all this is now a settled condition in the textile industry of the United States; it is inconceivable that the industry go backward; the whole question, therefore, seems to be as to whether, in the judgment of your honorable committee, these are materials for which the colored-goods mills should be directly taxed, and through them the working people, or if in their interest should remain on the free list.

Very respectfully,

BADISCHE CO.,
ADOLF KUTTROFF, *President*.

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Amber, and amberoid unmanufactured, or crude gum, gum Kauri, and gum copal.

COPAL GUM.

TESTIMONY OF M. DORIAN, REPRESENTING THE AMERICAN GRAPHOPHONE CO.

Mr. DORIAN. Mr. Chairman and gentlemen, I do not know whether I want to take up much of your time or not, because I am not informed as to what the purpose is, but in House bill No. 20182, section 37, there was a proposed duty on shellac and copal gum.

The CHAIRMAN. Thirty-seven, gum.

Mr. DORIAN. Gum, that is right.

The CHAIRMAN. Did you give your name and address to the stenographer?

Mr. DORIAN. Mr. M. Dorian.

I am the treasurer of the American Graphophone Co. Our company, which is a manufacturing concern, is very largely interested in two of the items mentioned in this paragraph 37; that is to say, shellac and copal gum, of both of which products we use quite a large quantity.

We are manufacturers, among other things, of what are known as talking-machine records, and especially of the disk type, and these two products enter largely into the manufacture of those records. Both these products, shellac and copal gum, are foreign products entirely, coming from East India. They are not produced in this country at all. There is no substitute for them at all. Our company, and some of the other companies which make use of them, have spent large sums of money in an endeavor to secure or produce some substitute for especially the shellac, and after very extensive experiments of this kind, and very costly experiments, have abandoned all further attempt to produce any substitute. The copal gum we use as a sort of body for the record. It forms the interior of the record, and it is also used largely, as the gentlemen of the committee probably understand already, in composition work, and is used in varnishes.

I mention that because I want the committee to understand that these are products in which American manufacturers, other than our own company, are very largely interested. To most of these manufacturers they are, I may say, indispensable products. We use them; manufacturers of buttons use them; manufacturers of composition goods, such as poker chips and a number of things of that

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kind, use these articles, and they are also in competition in the use of them with foreign manufacturers, particularly German and British.

Now, emphasizing once more to the committee the importance of the fact that these are products which can not be produced in this country, can not be duplicated, can not be substituted for in any particular, I want to say that both products have been for many years on the free list, and I appear here in support of the proposition to leave them there. The question of imposing a duty, even a slight one, on either or both of these products was under consideration, I believe, by the Payne committee, and after consideration they decided that they were products which were not properly taxable, and they left them on the free list. Now, there is a point that I want to bring to the notice of the committee in particular; that is as to the question of the value of the imports, because some of the gentlemen of the committee have been interested in that and have asked questions about it.

I had the honor of appearing before the Finance Committee of the Senate on this same subject in March of last year, and that question was asked by Senator Cullom, and Senator Smoot was kind enough to furnish these figures, which he took from some official document, that in 1910 the importation of copal gum was 15,837,432 pounds. Senator Smoot also furnished this information as to the value of that importation in dollars and cents; that is to say, in 1910 it amounted to \$976,603, and for shellac the value was \$3,575,342. He furnished this information also, that from a revenue-producing point of view these two articles were expected to produce: Shellac, \$201,340; copal gum, an increase in the revenue of \$89,285. Now, I have not had an opportunity or occasion to verify those figures at all. I give them to the committee for just such value as they may be to them.

Mr. JAMES. That was under the bill that passed the House?

Mr. DORIAN. Yes, sir; I believe that is right, sir. That was House bill No. 20182.

Mr. JAMES. These increased rates of revenue derived, which you have just read—who would pay that?

Mr. DORIAN. That would be paid by the importer.

Mr. JAMES. Yes.

Mr. DORIAN. You understand, sir, those products——

Mr. JAMES. Would it increase the sale to the consumer?

Mr. DORIAN. Undoubtedly; yes, sir.

Mr. HARRISON. Mr. Chairman, I will call Mr. James's attention to the fact that these are raw materials for the manufacture of varnish, and the same bill proposes to reduce the rate of duty on varnish from 35 to 25 per cent, in an endeavor to make the manufacturer bear the burden of this tax, and not hand it down to the public.

Mr. HILL. But both of them bear a reduction, on the finished product and a tax on the raw material. This makes it both ways.

Mr. DORIAN. As those products come into the country, gentlemen, they are absolutely worthless. That is to say, in their crude, raw state they are not useful in any way. With respect to our finished product, they have to go through a very complex, difficult, and expensive manufacturing process; the process of elimination, for instance—the elimination of impurities. Now, we get these goods, as I say,

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from the East, and it takes anywhere from two to three months to get a shipment after an order is placed before the goods can arrive here.

Now, that is an important feature for the American manufacturer, because the copal gum, especially, is packed and marked at point of embarkation. For instance, if we buy in Ceylon, the cases are marked there, and we pay on the weight marked in Ceylon. If the cases are three months in transit they dry out, and they reach us with a shrinkage of a very considerable amount. For instance, if a case is marked 225 pounds, when it reaches New York it may weigh 200 pounds, but we pay on the 225. Now, that is important for two reasons. Of course it means that we pay for more material than we actually obtain, but it means also that our competitor, who is nearer that market, has an advantage, because his loss on a similar case will be much less, and because with the British and German manufacturer, with whom we are in competition with respect to both the shellac and copal gum, he has the other advantage that he has better shipping facilities; he has about 10 or 20 ships to our 1; he has a cheaper freight rate, and he has no duty on his raw material, either in England or Germany, so that he has, at the start, an advantage over the American manufacturer and so great is that advantage, that we, as a manufacturing concern, have to meet, with respect to our European trade, that our company has endeavored to meet it by the erection of a factory at London, or near London, from which we supply all our European trade with the records manufactured from those and other ingredients.

Now, that factory has equipment and plant capable of employing anywhere from 500 to 700 men. At present we are employing 150 there. For the past few months we have been operating a very small plant in Canada very much for the same reason, that we must meet conditions in those countries where we have business worth taking care of. Now, then, we are particularly interested in these two products for our export trade. So far as our American trade is concerned, I will state frankly to the committee that the question does not trouble us at all, because we are protected not only by a duty on talking-machine records coming in, but we are also protected by the patent situation, so we are not in competition in this country with foreign manufacturers; but we are in competition with them in all foreign countries and especially in the South American countries, in Mexico, Japan, China, and the Philippines. And in those countries we are competing with English, German, French, and Italian manufacturers of talking-machine records of the disk type.

The CHAIRMAN. I understand you get a drawback for your export trade?

Mr. DORIAN. You understand what?

The CHAIRMAN. I understand you get a drawback for your export trade.

Mr. DORIAN. In what way, sir?

The CHAIRMAN. Why, if you import this raw material and manufacture it into finished products and wish to export it, you get a drawback of 99 per cent of the tax you have paid.

Mr. DORIAN. Under your new bill?

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The CHAIRMAN. Well, we assume that that same law will be carried into the new bill. It is in the present law. The drawback feature of the tariff law authorizes you, so far as your export trade is concerned, when you have paid a tax on your raw material, and then export it from the country——

Mr. DORIAN (interposing). We have not paid a tax up to this time.

The CHAIRMAN. I know, but——

Mr. DORIAN. I get your point.

The CHAIRMAN. You would only pay 1 per cent of the whole tax, ultimately.

Mr. DORIAN. But there is this other feature about it: We are employing in our factory—our main factory is located at Bridgeport, Conn., and there, at this time of year, we are employing 1,500 workmen. Our pay roll will run anywhere from \$15,000 to \$20,000 a week, and of that number, I should say 30 per cent are employed upon the manufacture of these records.

The CHAIRMAN. As I understand you, you say you have a patent in this country?

Mr. DORIAN. Yes.

The CHAIRMAN. Then, nobody can compete with you here?

Mr. DORIAN. I am not asking any help for this country.

The CHAIRMAN. Then, if you get a drawback on your export business, as you will have——

Mr. DORIAN. Yes.

The CHAIRMAN (continuing). Of 99 per cent of the tax you pay——

Mr. DORIAN. Yes.

The CHAIRMAN (continuing). Why, it does not seem to me that you are very seriously affected so far as building up your business is concerned.

Mr. DORIAN. I will be perfectly frank with the committee and say we will not be very much affected anyhow, for this reason: Thirty per cent of our product manufactured now in Bridgeport is for export and about 30 per cent—the same proportion—of our labor there is engaged on that class of work. Now, we can ship for export to South America, to China and Japan, just as well from our factory in London, and really better, because we will have better freight facilities than we can get from Bridgeport, and we have always been able to do that; but we have never taken that into consideration at all. But if we are further handicapped—we have a handicap now, as I have tried to show the committee in the difference in the freight, the difference in the shrinkage, and the quicker service—but if we are further handicapped by a duty on these raw materials, which are indispensable to us, and which can not be replaced by any other product, why, we shall have to very seriously consider how much of that sort of work—that is, that export business—we can handle from our factory in London, where we are under no such handicaps at all, and where we will be on a basis of equality with the foreign manufacturers.

The CHAIRMAN. Well, on your export trade I assume you will have the drawback on this material.

Mr. DORIAN. Well, that is very good too, but I would like to be able to impress the committee with the importance of leaving these articles on the free list not only for the benefit it will be to us, but for the benefit it will be to other American manufacturers. There is no

PARAGRAPH 488—COPAL GUM.

industry in America that needs protection by imposing a duty on either of these products. There is no American industry which would be injured by leaving them on the free list.

The CHAIRMAN. I will state to you the purpose of putting the tax on this particular article, about a 9 per cent tax, which is a low rate. It will raise about \$300,000, and we are of the opinion that these industries, such as the talking-machine industry and the poker-chip industries and the industries that use this raw material are prosperous and should pay a small tax to the United States Government. In other words, it distributes \$300,000 among the various industries that are prosperous or supposed to be.

Mr. DORIAN. I understand that those products are used very largely, not only by the poker-chip industry, but by hat manufacturers. You may get that revenue—unquestionably you will—but if some of these industries should, like our own, find these indispensable why it is a doubtful benefit it seems to me. I only suggest that to the committee.

The CHAIRMAN. The purpose of the committee is to tax purely for revenue. Of course if you do not think the industries which you represent can stand the tax, we do not want to put a burdensome tax upon you, but if it is a reasonable tax you ought to pay it.

Mr. DORIAN. I do not assume to speak for these other industries. I know what the effect would be upon us. I know that when the question was up before in the Senate there were a number of other representatives of the talking-machine interests who made the same statement that I have made to the committee.

We have been doing this part of our work in America and at Bridgeport for many years, when we could have made money by transferring it to London. We wanted to give the American workmen all the opportunity and advantage that we could.

Mr. KITCHIN. If you had to pay this tax, you would add it to the cost of the talking machines?

Mr. DORIAN. Unquestionably, if it cost us more to produce it.

Mr. KITCHIN. I say the talking-machine men would pay it?

Mr. DORIAN. The public.

Mr. KITCHIN. The moving-talking-machine man or the consumer. It would not hurt the talking-machine man, would it; it would be passed on to somebody else?

Mr. DORIAN. Certainly.

Mr. RAINEY. Under your patents, and under the law, as construed by the courts, you can regulate the price to suit yourself down to the jobber and clear down to the consumer?

Mr. DORIAN. I am not so sure about that.

Mr. KITCHIN. Under the Oldfield bill?

Mr. DORIAN. Mr. Oldfield says that we can do that.

Mr. RAINEY. So far have you been doing it?

Mr. DORIAN. Oh, yes.

Mr. RAINEY. Under your patent you have been fixing the price to suit yourself?

Mr. DORIAN. Oh, no.

Mr. RAINEY. You have been selling at a fixed price to the consumers, have you not?

Mr. DORIAN. A fixed price; yes, sir.

PARAGRAPH 488—COPAL GUM.

Mr. RAINEY. And unless we change that law in some way you are going to continue to do that?

Mr. DORIAN. Oh, yes.

Mr. RAINEY. And in addition to that you are going to fix a price that will suit you, to the ultimate consumer?

Mr. DORIAN. I do not think I heard that.

Mr. RAINEY. I say, in addition, according to the law you admit that you exercise the right to charge the ultimate consumer so much for the record you make, compel him to pay that, in addition, you do not insist on getting the raw material free?

Mr. DORIAN. We have always gotten the raw materials free. It is well established that raw material that is used which is not produced in this country, could not be developed in this country, should come in free. That has been so for many years.

Mr. RAINEY. How much do you pay your employees in your establishment?

Mr. DORIAN. We pay from \$1.50 a day to \$10 or \$20 a day.

Mr. RAINEY. How many children do you employ?

Mr. DORIAN. None.

Mr. RAINEY. How many women?

Mr. DORIAN. We have, in the clerical department, quite a number of them; but in the factory proper we have no women working on machines.

Mr. RAINEY. How many men do you pay \$20 a day?

Mr. DORIAN. I did not say laborers.

Mr. RAINEY. Those are salaries?

Mr. DORIAN. I said we paid from \$1.50 a day to \$20 a day.

Mr. RAINEY. Well, \$20 a day?

Mr. DORIAN. Our laborers we pay the same that other factories located in Bridgeport pay.

Mr. RAINEY. Who gets \$20 a day?

Mr. DORIAN. The foremen and factory superintendents.

Mr. RAINEY. Those are salaried men?

Mr. DORIAN. Yes.

Mr. RAINEY. You call those the salaries?

Mr. PAYNE. If you have to pay a duty on these materials imported here do you see any way of making up for that duty and getting it out of the business unless it comes out of the profit, and if they call for it, it comes out of the wages?

Mr. DORIAN. It will not come out of the wages; no. But it may deprive a certain per cent of our various laborers of the opportunity to earn any wages.

Mr. PAYNE. Do you think it would hurt your business any by cutting down the duty and putting on this tax on your material, so as to open up the market for foreign competition, taking away part of your market?

Mr. DORIAN. It is certain that it will take away our export market.

Mr. PAYNE. How about your interior market?

Mr. DORIAN. It won't affect that at all.

Mr. PAYNE. Why not?

Mr. DORIAN. Because there is already a tax on imported talking machines.

Mr. PAYNE. I understand that that is to be reduced.

PARAGRAPH 488—COPAL GUM.

Mr. DORIAN. Well, they might reduce that. I do not know what the purpose of the reduction is.

Mr. PAYNE. Also put a tariff on the material that you put into it.

Mr. DORIAN. We would still be protected by the patent situation, which the Oldfield bill, if it becomes a law, we hope will not affect at all.

Mr. PAYNE. Now, instead of putting that duty on the gum that comes in here that does not seem to do anybody any particular good, they leave that there and cut down the duty on your product, would not that, or would it, give the consumers of the country a chance to get the product cheaper?

Mr. DORIAN. I do not believe it would change the price of the product if they cut the duty down.

Mr. PAYNE. You do not think the ultimate consumer would get it any cheaper?

Mr. DORIAN. I do not, sir; because the price is already established on a very reasonable basis.

Mr. PAYNE. Who would absorb that, you or the middlemen? There would be a difference there. Who would absorb it, you or the middlemen?

Mr. DORIAN. I do not believe that the Government would get anything—

Mr. PAYNE (interposing). Would it get down to the point where—

Mr. JAMES (interposing). Let him answer one question at a time.

Mr. PAYNE. Somebody would have to absorb the difference.

Mr. DORIAN. I do not believe there would be any revenue from the talking machines.

Mr. PAYNE. Who would absorb that difference?

Mr. DORIAN. Do what, sir?

Mr. PAYNE. The difference in the tariff. Suppose the tariff is reduced and they import these goods.

Mr. DORIAN. They can not import them.

Mr. PAYNE. They can not import them anyway?

Mr. DORIAN. No.

Mr. PAYNE. Why not?

Mr. DORIAN. Because of the patent situation.

Mr. PAYNE. The patent?

Mr. DORIAN. The patent.

Mr. PAYNE. Oh, you don't need any duty, anyway?

Mr. DORIAN. We don't need any help at all as to the American market. I am here trying to help the committee to avoid spoiling our export trade.

Mr. PAYNE. Then I am in favor of putting it on the free list.

Mr. HILL. Do you use shellac and varnish for making films?

Mr. DORIAN. We do not make films; we make nothing but talking machines.

Mr. HILL. What do you call them?

Mr. DORIAN. We call them records; disks.

Mr. HILL. You use it in making your machines?

Mr. DORIAN. We do not use varnish.

Mr. HILL. You do not use it in making disks, but it is used in the sewing-machine industry, and by you in making your tables and stands and things of that kind?

PARAGRAPH 488—COPAL GUM.

Mr. DORIAN. Yes.

Mr. HILL. I will consider this proposition, a typewriter put on the free list and a cent a pound put on gum shellac or gum copal which is used, and duties added to their raw material, would it not compel something of a scaling of wages in those establishments?

Mr. DORIAN. Either that, or if it was an article which would permit of augmentation of the price it would be in the augmentation of the price, but if that were not possible there must then be either a reduction in the quality or a reduction in the price of labor.

Mr. HILL. The adoption of this system of putting duties on non-competitive raw material at the same time that heavy reductions are made on the finished product must necessitate a reorganization of all those industries where these raw materials are used.

Mr. DORIAN. I think so, sir.

Mr. HILL. And where can that come in except in the reduction of labor?

Mr. DORIAN. That is where it would be found first. It means that if this same policy were carried out with respect to all of the different items entering into the tariff schedule that we would be legislating in favor of our competitors, and discriminating against our own citizens. That is the way this proposition appeals to me.

Mr. HARRISON. Mr. Dorian, do you believe that it would be possible for the manufacturers to pay this tax out of their profits, out of their present profits?

Mr. DORIAN. Do you mean out of their profits?

Mr. HARRISON. Yes; that you could out of your profits.

Mr. DORIAN. Yes; if the cost of production is not increased thereby.

Mr. HARRISON. Do you believe in the manufacturers of the United States paying their share of the tariff taxes?

Mr. DORIAN. I believe most of them do. I know we do.

The CHAIRMAN. How much are your profits?

Mr. DORIAN. We pay 7 per cent dividends.

The CHAIRMAN. How much is that on your stock annually?

Mr. DORIAN. I would rather not state that in a public meeting of this kind.

The CHAIRMAN. On how much do you pay 7 per cent? How much stock have you got?

Mr. KITCHIN. How much is the capital stock of your company—this corporation?

Mr. DORIAN. Its authorized capital is \$10,000,000.

The CHAIRMAN. Capitalized at \$10,000,000 and pays 7 per cent dividends?

Mr. DORIAN. The authorized capital stock of the company is \$10,000,000. Of this authorized capital stock, however, but \$4,723,180 has been issued, viz: Common, \$2,627,550; preferred, \$2,095,630; total, \$4,723,180. The company has paid dividends of 7 per cent, but on its preferred stock only. The bonded indebtedness of the company is about \$1,350,000.

The CHAIRMAN. If we leave this tax on, how much of this raw material are you going to buy, or do you buy now?

Mr. DORIAN. I would figure that this would make a difference to us of \$15,000 to \$25,000 a year.

PARAGRAPH 488—COPAL GUM.

The CHAIRMAN. In other words, we are about to tax you, if we put this into effect, about \$25,000 a year for your industry and you pay \$700,000 in dividends. You can easily pay that \$25,000 tax without any——

Mr. DORIAN (interposing). You mean can we, Mr. Underwood, if the tax is imposed? We can pay it.

Mr. RAINEY. How much money have you got invested in your land and buildings?

Mr. DORIAN. In the land and buildings?

Mr. RAINEY. Yes, sir.

Mr. DORIAN. We have got a factory there that covers an entire block of ground.

Mr. RAINEY. How much did it cost you?

Mr. DORIAN. I could not tell you that.

Mr. RAINEY. Have you no idea what it cost to build that building?

Mr. DORIAN. I could not give you that information.

Mr. KITCHIN. Maybe you can give this information: You have got \$10,000,000 capital stock. How much money was actually paid in for that \$10,000,000? If you do not want to tell, that is all right.

Mr. DORIAN. I do not think the committee is entitled to any such information as that.

Mr. KITCHIN. What?

Mr. DORIAN. I do not think the committee is entitled to that information.

Mr. KITCHIN. I just wanted to know.

Mr. DORIAN. I do not care to make a statement of that kind. I do not think the gentlemen of the committee have a right to ask questions of that kind.

Mr. JAMES. You stated to Mr. Payne that you did not think the tariff rates fixed in this bill passed by the House would cause any reduction of wages. Is that right?

Mr. DORIAN. I do not think I said so, sir. You must have misunderstood me. Perhaps I misunderstood Mr. Payne.

Mr. JAMES. That is my understanding, that you stated it would not cause any reduction in wages at all.

Mr. DORIAN. I did not understand the question.

Mr. JAMES. Because you are already protected in this case by patents.

Mr. DORIAN. I remember saying to Mr. Payne that labor would be the first to feel any reduction that would take place.

Mr. JAMES. You said that to Mr. Hill.

Mr. DORIAN. To one of these gentlemen.

Mr. JAMES. That is the gentleman over there [indicating Mr. Hill], the end man.

Mr. RAINEY. How much money have you got invested in machinery?

Mr. DORIAN. If these are material questions I could get that information and give it to you personally.

Mr. RAINEY. I want to know. Have you any objection to answering?

Mr. DORIAN. We have a big factory there, employing 1,500 workmen, and it is full of machinery.

Mr. RAINEY. Is it not true you have not got as much as \$300,000 invested in your manufacturing plant?

PARAGRAPH 488—COPAL GUM.

Mr. DORIAN. All of that.

Mr. RAINEY. Any more than that?

Mr. DORIAN. I would not undertake to tell you off-hand.

Mr. RAINEY. Is it not true that you have not got as much as \$500,000?

Mr. DORIAN. It is a big concern.

Mr. RAINEY. Outside of your patents which you hold at a certain value, are you sure you have got as much as \$500,000?

Mr. DORIAN. I will tell you what I will do, sir. I will take pleasure in sending you our last and our next annual statement.

Mr. RAINEY. I do not care for that. This is a public hearing, and we are trying to get at the facts, and what the Government thinks you are entitled to.

Mr. SHACKLEFORD. Have you a bonded indebtedness?

Mr. DORIAN. Yes, sir.

Mr. SHACKLEFORD. Will you state how much?

Mr. DORIAN. A bonded indebtedness of over a million dollars.

Mr. SHACKLEFORD. Over a million?

Mr. DORIAN. Yes, sir. The company was authorized to issue bonds at \$2,000,000. They have not issued the full amount. This company is 25 years old, sir, organized in the city of Washington.

Mr. KITCHIN. The original issue of stock was \$10,000,000?

Mr. DORIAN. No, sir.

Mr. KITCHIN. Of course you understand when you gentlemen come here and ask us for a tariff so that you can pay a reasonable dividend on your capital stock, we have a right to know how much of it is represented by money and how much is mere paper.

Mr. DORIAN. With all due respect to the committee, I do not think you have a right to ask a question of that kind.

Mr. KITCHIN. If you ask us to give you a tariff which will pay a dividend on your capital stock, then we have a right to ask how much is the real capital stock with the water out.

Mr. DORIAN. I think I have made it very clear to the committee that if this duty were imposed it would not put my company out of business. It might induce the company to switch a portion of its manufacturing from one factory to another.

Mr. JAMES. Whether this tariff rate that is now under discussion is paid by taking \$25,000 out of your \$700,000 dividends, or whether it is paid by increasing the price of the article you sell, these articles are not necessities; they are luxuries, are they not?

Mr. DORIAN. Well, they might be so considered, but most people look upon them as necessities, the same as they do on any other musical instrument.

Mr. JAMES. Any other amusement?

Mr. DORIAN. They are considered more as music. They are now looked upon as musical instruments—instruction. People buy them to instruct their children in music and a musical education.

Mr. HILL. Mr. Dorian, this whole series of questions seems to be based on the theory that you are a very large consumer of these two articles.

Mr. DORIAN. Yes.

Mr. HILL. As a matter of fact, compared to the total consumption of the United States, you are a very small consumer?

PARAGRAPH 488—COPAL GUM.

Mr. DORIAN. That is right.

Mr. HILL. I want to call your attention to the fact that the dutiable imports of Schedule A were \$48,869,368 in 1912. Under this bill the dutiable imports are \$96,742,850. Under the Payne bill the free imports under Schedule A were \$68,223,287; under this bill, \$26,178,943.

Do you consider that the general policy illustrated by this change, not only affecting you, but a large number of other industries not as well able to stand it as you can, by which the raw materials are taxed and the whole tax added to the cost of noncompetitive products is a helpful one to the American nation as a whole?

Mr. DORIAN. I consider it a mistake, and, I might almost say, a blunder, because, as I stated a few minutes ago, it is discriminating in favor of the foreign and against the American manufacturer. I say that with all sincerity, too.

Mr. PAYNE. That is the kind of revision upward you do not like?

Mr. DORIAN. I am speaking now more as a citizen than as a representative of my company.

Mr. JAMES. Do you recognize any difference between a raw material that is a luxury and a raw material that enters into the manufacture of a necessity?

Mr. HARRISON. That he has said was a necessity.

Mr. JAMES. You may think a phonograph is a necessity, but meat and bread are necessities down in our place.

Mr. DORIAN. I can of course understand that the gentlemen of the committee become tired and worn after listening to us talk all day, and they must have their little jokes. I mentioned poker chips simply to show that these materials, these products, are used in a number of different trades and industries. I do not know anything at all about the manufacture of poker chips.

Mr. JAMES. But the question I ask you—you answered a question here along a general proposition, at considerable length, as to what the policy of the Government ought to be about the importation—

Mr. DORIAN (interposing). I only gave my views.

Mr. JAMES (continuing). About the importation of raw materials, and I asked you whether or not you make any distinction between a raw material that is used in a luxury and a raw material that is used in a necessity—whether or not you would allow a tariff upon neither of them or upon both of them alike.

Mr. DORIAN. I do not just get your idea, but I think you mean—

Mr. JAMES. How?

Mr. DORIAN. I perhaps do not quite get you, but I think you mean that a talking machine is regarded as a luxury.

Mr. JAMES. Certainly, I mean that.

Mr. DORIAN. The shellac and copal gum which enters into the manufacture of that talking machine record is not a luxury.

Mr. JAMES. I know, but he asked you that broad question about the importation of raw materials, as to what ought to be the policy, to have all of them admitted free, and you answered that it was, or should be, and then I asked you whether you would make any distinction in allowing a tariff upon a luxury or upon a necessity, where it is a raw material.

PARAGRAPH 488—COPAL GUM.

Mr. DORIAN. If you import wine, that is a luxury, that is something that is quite different. I would go as far as any member of this committee in imposing a tax upon a raw material of that kind.

Mr. HILL. The greater part of this schedule is a raw material schedule?

Mr. DORIAN. I do not know about the rest of the schedule.

Mr. HILL. These gums are all raw materials?

Mr. DORIAN. These gums are raw materials.

Mr. HILL. I will state this, that in the Payne bill the ad valorem of that whole schedule, according to this classification, was 10.7 per cent; the ad valorem on this schedule, according to this classification, is 13.1 per cent. Is it a wise policy, in your judgment, for the benefit of all manufacturers that are using these things, to increase this schedule between 2 and 3 per cent ad valorem?

Mr. DORIAN. I do not think so, sir, and I say that as a business man.

The CHAIRMAN. All right, Mr. Dorian, unless you have something else to say you will be excused.

The following letter was also filed by the witness:

WASHINGTON, D. C., January 7, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means, House of Representatives.

SIR: I appeared before your honorable committee on the 6th instant to recommend on behalf of the American Graphophone Co. the retention on the "free list" of shellac and copal gums.

In the course of the hearing a number of inquiries were addressed to me by members of the committee as to the capitalization and profits of the company which I thought the committee was not entitled to make and I declined to furnish some of the particulars asked for.

I find that a misleading summary of my statements has appeared in a Washington newspaper, and I therefore request permission to file the following statement.

The authorized capital stock of the company is, as I stated yesterday, \$10,000,000. Of this authorized capital stock, however, but \$4,723,180 has been issued, viz:

Common.....	\$2,627,550
Preferred.....	2,095,630
	<hr/>
	4,723,180

The company has paid dividends of 7 per cent—as I stated—but on its preferred stock only. Instead, therefore, of paying dividends on its \$10,000,000 of authorized capital it has paid on \$2,095,630 only, or \$146,694.10 per annum instead of \$700,000 as published.

The bonded indebtedness of the company is about \$1,350,000.

The newspaper summary referred to quotes me as declining to state, in answer to an inquiry of Representative Kitchin, how much of the capital was paid in. I did not so decline. I at first failed to grasp the purport of his inquiry, but, when I did, stated that all of the capital issued was paid in.

Yours, respectfully,

M. DORIAN,
Treasurer, American Graphophone Co.

BRIEF SUBMITTED BY THE TARIFF COMMITTEE OF THE NATIONAL VARNISH MANUFACTURERS' ASSOCIATION.

DECEMBER 31, 1912.

HON. OSCAR W. UNDERWOOD,

*Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.*

SIR: We, the representatives of the National Varnish Manufacturers' Association, comprising over 80 per cent of the varnish industry in the United States, do respectfully protest against the imposition of any duty on the following raw materials which

PARAGRAPH 488—COPAL GUM.

enter into the manufacture of varnishes, and which articles are of foreign origin only, and not any of them found or produced in this country: Gum copal (act of 1909, par. 488; H. R. 20182, par. 37); gum kauri and damar (act of 1909, pars. 488 and 559; H. R. 20182, par. 37); gum shellac (act of 1909, par. 605; H. R. 20182, par. 37); soya bean oil (act of 1909, par. 639; H. R. 20182, par. 50); Chinese nut oil (act of 1909, par. 639; H. R. 20182, par. 50).

DESCRIPTION AND STATISTICS.

[Gum copal (act of 1909, par. 488, free); gum kauri (act of 1909, par. 488, free).]

These gums are found in various parts of the globe, but none in the United States. They are brought to this country in their natural state as they are mined or dug from the earth. They are of a fossil nature, and it is supposed they were originally exudations from trees which have, to a very large extent, disappeared; the age of these gums being uncertain.

It is pretty safe to assume that nature is at the present time producing only a limited quantity, and in the course of a few years the present fields will become entirely exhausted. This fact is strongly indicated by the deterioration of the quality and the continued advance in price.

The importation of these gums is comparatively small and every year grows less.

Importations.

	Quantity.	Value.	Average price per pound.	Variation in price per pound.
GUM COPAL.				
Year ending June 30:	<i>Pounds.</i>			<i>Cents.</i>
1910.....	15,837,432	\$976,603	\$0.062	} 3 to 18
1911.....	10,916,609	615,002	.056	
GUM KAURI.				
Year ending Dec. 31:				
1909.....	10,640,000	1 1,723,680	1.162	} 4 to 90
1910.....	9,509,000	1 1,473,895	1.155	
1911.....	7,772,800	1 971,600	1.125	

¹ The decrease in value in kauri does not represent a decline in the market price, but is due to a larger importation of the lower grades.

Prior to the years mentioned the statistics obtainable included all imported varnish gums and did not classify them separately.

[Gum damar (act of 1909, par. 488, free).]

Batavia gum damar differs from gum copal and kauri inasmuch as it is not a fossil gum, but is a hardened exudation taken from the trees grown in the Dutch East Indies. There is another damar gum known as Singapore, which exudes from the trees and is found in the ground partly fossilized.

Importations.

	Quantity.	Value.	Average price per pound.	Variation in price per pound.
Year ending Dec. 31—				
1910.....	<i>Pounds.</i> 4,018,601	\$35,765	\$0.089	<i>Cents.</i> } 5 to 15
1911.....	4,414,509	44,145	.100	

PARAGRAPH 488—COPAL GUM.

[Gum shellac (act of 1909, par. 559, free).]

Gum shellac is found in India. It is an exudation from the branches of a tree. Small insects affix themselves to twigs, puncturing the bark and sucking the sap, which they give out again as an excretion. This solidifies on contact with the air, gradually forming a deposit.

Importations.

	Quantity.	Value.	Average price per pound.	Variation in price per pound.
Year ending June 30—	<i>Pounds.</i>			<i>Cents.</i>
1909.....	19,189,251	\$3,891,157	\$0.203	} 12 to 22
1910.....	29,390,729	3,875,542	.132	
1911.....	15,497,583	2,306,277	.149	

[Soya-bean oil (act of 1909, par. 639, free).]

This oil is expressed from the soya bean, which is found principally in Manchuria, northern China. The bean grows on small bushes. The beans are edible and also the cake after the oil is expressed, but not the oil itself.

Importations.

	Quantity.	Value.	Average price per pound.
Year ending June 30, 1911.....	<i>Pounds.</i> 41,105,920	\$2,555,707	\$0.062

[Chinese nut oil (act of 1909, par. 639, free).]

This is known by several names: Chinese nut oil, China wood oil, tung oil. The Department of Agriculture mentions this oil as that expressed from nuts of the *Aleurites fordii* tree. This tree grows wild in central China in Provinces bordering on the Yangtze River.

Importations.

	Quantity.	Value.	Average price per gallon.	New York variation in price per gallon.
Year ending June 30—	<i>Gallons.</i>			<i>Cents.</i>
1909.....	2,326,605	1 \$819,596	1 \$0.352	44 to 49
1910.....	2,494,896	1 846,635	1 .339	49 to 55
1911.....	5,840,739	1 2,204,016	1 .377	53 to 64

: Represents the China invoice value less freight and charges.

BILL H. R. 20182.

All of these articles briefly described have been for years imported free of duty. In the chemical schedule (H. R. 20182), which passed the House of Representatives in February, 1911, they were removed from the free list and placed on the dutiable list as follows: Gum copal (par. 37), one-half cent per pound; gum kauri and damar (par. 37), 1 cent per pound; gum shellac (par. 37), 1½ cents per pound; soya-bean oil (par. 50), one-fourth cent per pound; Chinese nut oil (par. 50), 5 cents per gallon.

PARAGRAPH 488—COPAL GUM.

ARGUMENTS.

GUMS COPAL, KAURI, DAMAR, AND SHELLAC.

1. From the point of view of the domestic manufacturers, it would seem that they are entitled to the admission into this country without payment of duty, the said gums copal, kauri, damar, and shellac, which are not products of this country and which are an absolute necessity in the manufacture of varnishes.

2. The Government of the colony of New Zealand, from which gum kauri comes, has had it in mind for some years back to place an export duty on this gum. In fact, such a bill passed the New Zealand Parliament in recent years, but was not made effective because of the panic of 1907. We can not help feeling that an attempt on the part of the United States Government to tax such an important product of New Zealand as gum kauri will result in the application of the export duty by the New Zealand Government that will work still further hardship to the American manufacturer.

3. As already stated, the supply of gums copal and kauri is gradually growing less and the quality poorer with advancing prices; therefore the domestic manufacturers should not be burdened with a duty which would increase the cost of the finished products.

CHINESE NUT OIL.

1. The domestic manufacturer believes he is entitled to admission into this country without payment of duty Chinese nut oil (oil expressed from the nut of the *Aleurites fordii*) which is not a product of this country and which is an absolute necessity to the manufacturers of varnish.

2. Chinese nut oil has materially increased the use of rosin produced in our Southern States, for certain grades of varnishes are manufactured by combining this oil with rosin and still others by combining this oil with rosin and certain grades of gums copal and kauri.

3. Chinese nut oil possesses peculiar properties which are most desirable in the manufacture of varnish in this country, and these properties can not be found in anything else of which the varnish manufacturers have any knowledge.

4. Chinese nut oil more than any other raw material has made it possible to produce a satisfactory varnish at a moderate price, thereby benefiting the public at large.

5. The varnish manufacturers have been enabled to develop many products for sanitary, waterproofing, and other purposes by the use of Chinese nut oil.

GENERAL.

FOREIGN COMPETITION.

To impose a duty on the above-mentioned raw materials will put the American manufacturers of varnish at a decided disadvantage in competition, particularly with the English manufacturer for the following reasons:

First. There are no duties on these raw materials in England.

Second. Linseed oil is lower in price in England than it is in this country. (See exhibit attached.)

Third. Tin cans also are lower in cost.

Fourth. The rate of freight from the primary markets to England on the above gums and oils is lower. Most of these raw materials for American consumption have to be shipped via England and European ports in the absence of direct shipping facilities.

Fifth. The cost of labor in England is decidedly lower than in this country. To illustrate the difference for the same class of work in England and the United States, a varnish tester in England makes an average salary of £2 per week (about \$10 United States gold). The same class of labor in this country would command at least \$25 per week. For ordinary labor where we are obliged to pay \$12 per week, the same class of labor can be obtained in England for £1 6s. (about \$6.50). The same relative difference maintains in all classes of labor employed in the varnish industry.

Sixth. It is a well-known fact that rents and overhead charges are also comparatively lower in England than they are in this country.

Seventh. All of these advantages will enable the English manufacturers to undersell the varnish manufacturers in this country in spite of the 25 per cent duty on

PARAGRAPH 488—COPAL GUM.

varnishes if the American manufacturer is burdened with any duty on the raw materials that enter into varnish manufacture.

Eighth. The Canadian manufacturer, our nearest competitor, pays no duty on gums copal, kauri, damar, shellac, or Chinese nut oil, and therefore the imposition of a duty on these articles would be a manifest injustice to the varnish manufacturer of this country.

VARNISH INDUSTRY.

It is not generally known to what extent varnish is used, and that it has become a necessity and ceased to be a luxury. It is used on woodwork and metal work of buildings, on furniture, agricultural implements, sewing machines, locks, bolts, hardware, metal work, labels, pianos, wagons, carriages, automobiles, and in short on almost everything where wood or metal is exposed. It is now being applied to the interior walls and floors of concrete work to give a good surface and to prevent the flying of dust.

For sanitary purposes it is of great importance, as in hospitals and public buildings. From the above it can be clearly seen that a duty on any raw material used in the manufacture of varnish will affect directly or indirectly every person in the country.

The growth of the varnish industry in this country is due largely to the fact that we have free raw materials.

In the report of the census of manufactures of 1905, part 4, page 461, it is stated that the value of oil and turpentine varnish was \$16,170,614 and that the value of alcohol varnish for the same period was \$2,202,645, from which it would appear that the varnish industry in this country is a very substantial one, and the product of this domestic industry has increased very greatly since 1905.

The present tariff has produced no trusts, pool, or agreement on prices. Internal competition has reduced the price of the article to a minimum of a reasonable profit on the capital employed.

The revenue derived from a duty on all of these raw materials referred to would be comparatively of small benefit to the Government as a source of revenue, and yet such an imposition of duty would greatly injure a growing domestic industry.

We beg to call your attention to an interesting fact and that is, after the hearings of the Senate Finance Committee on the House bill 20182, the minority of the Finance Committee, composed of Senators J. W. Bailey, F. M. Simmons, William J. Stone, John Sharp Williams, John W. Kern, and Charles F. Johnson, gave their views to the Senate in Calendar No. 576, and recommended amendments which would return all of these articles to the free list. The Hon. Charles F. Johnson of Maine, in his speech in the Senate June 14, 1912, favoring the passage of this same bill, also offered the amendments already mentioned.

In view of the foregoing facts, the National Varnish Manufacturers Association urges respectfully upon your honorable committee that gums copal, kauri, damar, shellac, and Chinese nut oil and soya-bean oil shall remain on the free list, all of which is respectfully submitted.

NATIONAL VARNISH MANUFACTURERS ASSOCIATION,
R. O. WALKER, *President*.

Tariff committee: Col. P. H. Callahan, chairman, Louisville Varnish Co.; Max Wolf, Standard Varnish Works; Charles C. Chopp, Glidden Varnish Co.; L. H. Conklin, Flood & Conklin Co.; S. V. V. Huntington, Edw. Smith & Co.; Col. Franklin Murphy, jr., Murphy Varnish Co.; W. H. Phillips, F. W. Devoe & C. T. Reynolds Co.

EXHIBIT.

London and New York quotations on linseed oil from July 1, 1911, to Nov. 21, 1912.

Date.	London quotation.	Per gallon in American money at London.	New York quotation.
1911.	Per cwt.		
July 1.....	s. d. 40 10½	\$0.6657	\$0.90
July 15.....	40 6	.6594	.87
Aug. 1.....	40 9	.6636	.87
Aug. 15.....	40 9	.6636	.85

PARAGRAPH 491—ANILINE SALTS.

London and New York quotations on linseed oil from July 1, 1911, to Nov. 21, 1912—Con.

Date.	London quotation.	Per gallon in American money at London.	New York quotation.
1911.			
Sept. 1.....	<i>Per cwt.</i> s. d. 42 6	<i>Per gallon.</i> .6903	<i>Per gallon.</i> .87
Sept. 15.....	42 9	.6942	.92
Oct. 2.....	42 3	.6862	.92
Oct. 16.....	40 1½	.6531	.90
Nov. 1.....	39 3	.6389	.89
Nov. 15.....	34 0	.55½	.82
Dec. 1.....	34 6	.5609	.76
Dec. 15.....	34 6	.5609	.73
1912.			
Jan. 3.....	39 6	.6428	.73
Jan. 15.....	40 3	.6552	.78
Feb. 1.....	37 4½	.6059	.75
Feb. 15.....	37 3	.6039	.75
Mar. 1.....	36 0	.58½	.75
Mar. 15.....	37 9	.6117	.72
Apr. 1.....	38 1½	.61½	.73
Apr. 15.....	39 6	.65½	.75
May 1.....	40 3	.6552	.75
May 9.....	40 0	.651	.75
June 1.....	45 4½	.741	.78
June 16.....	44 0	.71½	.79
July 1.....	42 7½	.6923	.79
July 15.....	36 6	.5928	.73
Aug. 1.....	33 6	.5446	.73
Aug. 15.....	33 3	.5404	.70
Sept. 3.....	34 9	.5651	.69
Sept. 16.....	33 9	.5488	.69
Oct. 1.....	33 9	.5488	.68
Oct. 15.....	33 0	.5362	.64
Nov. 7.....	29 3	.4773	.58
Nov. 21.....	28 3	.45½	.52

PARAGRAPH 489.

Ambergris.

PARAGRAPH 490.

Ammonia, sulphate of.

PARAGRAPH 491.

Aniline salts.

See J. F. Schoellkopf, page 5805.

ANILINE SALTS.

BRIEF OF THE BENZOL PRODUCTS CO. REGARDING THE AMENDMENT OF THE CHEMICAL SCHEDULE.

NEW YORK, January 27, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee,

House of Representatives, Washington, D. C.

SIR: This statement concerns only two articles, aniline oil and aniline salt. Both are now duty free (pars. 639 and 491). It is proposed to impose a duty of 10 per cent ad valorem on each (H. R. 20182, par. 24). Since present European exportations of these articles to the United States are sold below cost, we believe that higher moderate duties thereon would not tend to increase domestic prices. We suggest a duty of 20 per cent ad valorem, or 1½ cents per pound on each.

This company was formed in 1910 for the purpose of utilizing part of the increasing domestic production of benzol and mineral acids in the manufacture of aniline oil and aniline salt. Both articles were then and are now extensively used in this country.

PARAGRAPH 491—ANILINE SALTS.

Until we began business the entire domestic consumption of each was imported from Europe, where their production and sale were and are controlled by "convention" among large and powerful manufacturers.

In 1910 the importations into the United States of aniline oil and salt, and their total and unit values, were as follows:

	Pounds.	Total value.	Invoice import value per pound.	Net mar- ket price per pound.
			<i>Cents.</i>	<i>Cents.</i>
Aniline oil	1, 946, 805	\$199, 105. 00	10. 2	10. 9
Aniline salt	5, 870, 905	515, 552. 50	8. 8	9. 75
Total	7, 817, 710	714, 657. 50	.....	.....

With a prospect of securing at first a small share of this market and gradually developing the domestic industry in competition with European manufacturers, we undertook to manufacture both articles, starting with a capacity of 2,000,000 pounds aniline oil and salt per annum. As soon, however, as the European "convention" became aware of our plans, its members announced their intention of putting us out of business as promptly as possible by underselling, regardless of costs, while our production was still small in proportion to their exports to this country. Accordingly, they at once cut the regular net delivered market price of their exports to this country to 9.9 cents for aniline oil and 8.4 cents for aniline salt, and made secret contracts for sales in large quantities at far lower prices. In the instance of one of the largest consumers in the United States a price for aniline oil of 8.5 cents—a reduction of 2.4 cents per pound—failed to secure the contract.

These European sales are at prices below cost. Similar reductions have not taken place in other countries. The reductions here were made in the face of a world-wide advance in the prices of the materials entering into aniline oil and aniline salt, involving an advance in manufacturing costs of at least 1 cent per pound of product.

So long as Europe continues its present policy of exporting these articles to the United States at prices regardless of cost the rate of duty thereon, unless very excessive, can not of course be a factor in the determination of the domestic price. We assume that this policy will be continued until the domestic industry either has been destroyed or has so far displaced European exports as to exclude that possibility. The latter condition is years off, even under the most favorable conditions.

As each of the commodities referred to is known commercially as of only one strength, quality, and grade, specific duties thereon would be more appropriate than ad valorem.

We therefore request that the bill H. R. 20182 be amended as follows:

Page 3, between lines 13 and 14, insert:

"8a. Aniline oil and salt, 1½ cents per pound."

Respectfully submitted.

BENZOL PRODUCTS CO.,
ROLAND G. HAZARD, *President.*

PARAGRAPH 492.

Any animal imported by a citizen of the United States specially for breeding purposes shall be admitted free, whether intended to be so used by the importer himself, or for sale for such purpose: **Provided**, That no such animal shall be admitted free unless pure bred of a recognized breed, and duly registered in the book of record established for that breed: **And provided further**, That certificate of such record and of the pedigree of such animal shall be produced and submitted to the customs officer, duly authenticated by the proper custodian of such book of record, together with the affidavit of the owner, agent, or importer that such animal is the identical animal described in said certificate of record and pedigree: **And provided further**, That the Secretary of Agriculture shall determine and certify to the Secretary of the Treasury what are recognized breeds and pure bred animals under the provisions of this paragraph. The Secretary of the Treasury may prescribe such additional regulations as may be required for the strict enforcement of this provision. Cattle, horses, sheep, or other domestic animals straying across the boundary line into any foreign country, or driven across such boundary line by the owner for temporary pasturage purposes only, together with their off-

PARAGRAPH 491—ANALINE SALTS.

spring, may be brought back to the United States within six months free of duty, under regulations to be prescribed by the Secretary of the Treasury: And provided further, That the provisions of this act shall apply to all such animals as have been imported and are in quarantine, or otherwise in the custody of customs or other officers of the United States, at the date of the passage of this act.

PARAGRAPH 493.

Animals brought into the United States temporarily for a period not exceeding six months, for the purpose of breeding, exhibition, or competition for prizes offered by any argicultural, polo, or racing association; but a bond shall be given in accordance with regulations prescribed by the Secretary of the Treasury; also teams of animals, including their harness and tackle, and the wagons or other vehicles actually owned by persons emigrating from foreign countries to the United States with their families, and in actual use for the purpose of such emigration under such regulations as the Secretary of the Treasury may prescribe; and wild animals intended for exhibition in zoological collections for scientific and educational purposes, and not for sale or profit.

PARAGRAPH 494.

Annatto, roucou, rocoa, or orleans, and all extracts of.

PARAGRAPH 495.

Apatite.

PARAGRAPH 496.

Arrowroot in its natural state and not manufactured.

PARAGRAPH 497.

Arsenic and sulphide of arsenic, or orpiment.

PARAGRAPH 498.

Arseniate of aniline.

PARAGRAPH 499.

Articles in a crude state used in dyeing or tanning not specially provided for in this section.

PARAGRAPH 500.

Articles the growth, produce, or manufacture of the United States, not including animals, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means; casks, barrels, carboys, bags, and other containers or coverings of American manufacture exported filled with American products, or exported empty and returned filled with foreign products, including shooks and staves when returned as barrels or boxes; also quicksilver flasks or bottles, iron or steel drums used for the shipment of acids, of either domestic or foreign manufacture, which shall have been actually exported from the United States; but proof of the identity of such articles shall be made, under general regulations to be prescribed by the Secretary of the Treasury, but the exemption of bags from duty shall apply only to such domestic bags as may be imported by the exporter thereof, and if any such articles are subject to internal-revenue tax at the time of exportation, such tax shall be proved to have been paid before exportation and not refunded; photographic dry plates or films of American manufacture (except moving-picture films), exposed abroad, whether developed or not, and films from moving-picture machines, light struck or otherwise damaged, or worn out, so as to be unsuitable for any other purpose than the recovery of the constituent materials, provided the basic films are of American manufacture, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury: Provided, That this paragraph shall not apply to any article upon which an allowance of drawback has been made, the reimportation of which is hereby prohibited except upon payment of duties equal to the drawbacks allowed; or to any article manufactured in bonded warehouse and exported under any provision of law: And provided further, That when manufactured tobacco which has been exported without payment of internal-revenue tax shall be reimported it shall be retained in the custody of the collector of customs until internal-revenue stamps in payment of the legal duties shall be placed thereon.

PARAGRAPH 506—BEESWAX.**PARAGRAPH 501.**

Asbestos, unmanufactured.

PARAGRAPH 502.

Ashes, wood and lye of, and beet-root ashes.

PARAGRAPH 503.

Asafetida.

PARAGRAPH 504.

Balm of Gilead.

PARAGRAPH 505.

Barks, cinchona or other from which quinine may be extracted.

PARAGRAPH 506.

Beeswax.

BEESWAX.**BRIEF FROM E. A. BROMUND & CO. ON WHITE BEESWAX.**

Hon. OSCAR W. UNDERWOOD,

Committee on Ways and Means, Washington, D. C.

DEAR SIR: We take the liberty of submitting this short brief on the subject of white beeswax.

The domestic production of white bleached beeswax costs the American manufacturer from 37 to 39 cents per pound to produce. The foreign article, largely imported from Germany, is sold here at prices of 36 to 37 cents per pound.

White beeswax is strictly a product of the bleacher, requiring experienced and skilled labor, and is consumed almost entirely in manufacturing toilet cream preparations and other luxurious compounds; therefore, white beeswax can not be described as one of the important necessities. The cost of the raw or crude beeswax is about 30 to 32 cents per pound.

A duty of 20 per cent would be reasonable and a fair taxation on white beeswax. It would equalize, somewhat, the differences in the cost of bleaching. Your valued and favorable consideration would be of great service to the American manufacturer of white beeswax.

There can be no injury to the American producer of raw or natural beeswax, as the conditions here are practically the same as to price and cost to the consumer.

Yours, very truly,

E. A. BROMUND & Co.,
E. A. BROMUND.

NEW YORK, December 4, 1912.

Chairman UNDERWOOD,

The Ways and Means Committee, Washington, D. C.

DEAR SIR: We wrote you several letters within the past year in reference to the importation of white beeswax, manufactured and mainly imported from Germany.

We acknowledged receipt of your esteemed letters in which you very courteously informed us that the subject would be duly considered and presented to the tariff committee. We take the liberty of broaching this important matter again, both in justice to ourselves, as well as affecting the welfare of the labor thus employed.

We have previously explained the salient details and facts relating to the manufacture of white beeswax and the many reasons why the American manufacturer can not compete with the foreign producer.

The comparative conditions as to the cost of manufacturing are no doubt entirely familiar to the honorable chairman; therefore, we would repeat and emphasize more especially the main issue that white beeswax is strictly and undeniably a product of the bleachery, requiring the employment of skilled and experienced labor.

We would state further that white beeswax is consumed extensively in the manufacturing of many toilet cream preparations commonly called "cold cream;" therefore, this product can not be described or classified in a strict sense as a commodity which is indispensably and potentially necessary to the general welfare of the American public; consequently we would presume from these facts that the importation of white beeswax would appeal very pertinently and favorably as foreign merchandise, fully justifying a revenue tax and duty to some extent at least.

PARAGRAPH 515—CRUDE BONES.

We have been obliged to relinquish almost entirely the manufacturing of white beeswax of late, and we are fully advised that the present tariff conditions have proved as disastrous to each similar industry in this country.

It is a matter of frequent record that our home supply of raw beeswax is shipped to Europe and returned to us in the bleached and manufactured state.

We hope we have made clear the difference between the raw and natural beeswax and the white manufactured article. The precarious position of the American manufacturer under such conditions is plainly very evident, and we are making this urgent appeal to your esteemed consideration. We would suggest most respectfully that a tariff taxation of at least 20 per cent per pound on the foreign importation of white beeswax would not be an excessive duty but would afford the American manufacturer a small reasonable profit and enable him to compete under somewhat more equal conditions with the German bleacher. We trust we may be favored with your further courteous attitude and that some definite legislative action will follow in the near future.

We would value very highly any communication from you inquiring for any details or information you may wish to know in regard to this matter.

Yours, very truly,

E. A. BROMUND & Co.
J.

PARAGRAPH 507.

Binding twine: All binding twine manufactured from New Zealand hemp, manila, istle or Tampico fiber, sisal grass, or sunn, or a mixture of any two or more of them, of single ply and measuring not exceeding six hundred feet to the pound: Provided, That articles mentioned in this paragraph, if imported from a country which lays an import duty on like articles imported from the United States, shall be subject to a duty of one-half of one cent per pound.

PARAGRAPH 508.

Bells, broken, and bell metal broken and fit only to be remanufactured.

PARAGRAPH 509.

Birds, stuffed, not suitable for millinery ornaments.

PARAGRAPH 510.

Birds and land and water fowls.

PARAGRAPH 511.

Bismuth.

PARAGRAPH 512.

Bladders, and all integuments, tendons, and intestines of animals and fish sounds, crude, dried or salted for preservation only, and unmanufactured, not specially provided for in this section.

PARAGRAPH 513.

Blood, dried, not specially provided for in this section.

PARAGRAPH 514.

Bolting cloths composed of silk, imported expressly for milling purposes, and so permanently marked as not to be available for any other use.

PARAGRAPH 515.

Bones, crude, or not burned, calcined, ground, steamed, or otherwise manufactured, and bone dust or animal carbon, and bone ash, fit only for fertilizing purposes.

CRUDE BONES.**SUGGESTIONS FOR CHANGES IN PARAGRAPH 515.**

HON. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means,

United States House of Representatives, Washington, D. C.

HOBOKEN, N. J., *February 14, 1913.*

DEAR SIR: In reply to your notice on tariff hearings dated December 11, 1912, which has just come to our attention, we beg to respectfully submit the following:

PARAGRAPH 515—CRUDE BONES.

Schedule A—(par. No. 45).—Present duty 25 per centum ad valorem, strike out the word "bone" in the first line, and strike out the words "bone black and" in the second line.

Schedule N, free list (par. No. 515).—Strike out the words "or not burned" and substitute in place of same the word "burned." Strike out the words "or otherwise manufactured." Strike out the words "Fit only for fertilizing purposes."

So that this paragraph shall read "Bones, crude, burned, calcined, ground, steamed, and bone dust, or animal carbon, and bone ash."

This company produces phosphoric acid. It is not identified with any other concern, either by association, price understanding, or any other manner. Phosphoric acid is now on the free list under the tariff act of August 5, 1909, Schedule N, paragraph No. 482. We do not ask for a duty on this commodity. We submit, however, that the raw material from which same is produced should be admitted free of duty.

Our production of phosphoric acid enters as a chief component part of acid phosphate, an element for baking powder, used for food preparation purposes. The essential raw material is bone, principally in burned form as bone black or animal carbon. Likewise, it very largely enters into the production of fertilizer, or manure, for agricultural purposes. The American supply of bone is practically exhausted and the demand for bone black for the above-mentioned purposes is largely in excess of the domestic production, and the price of bone black, both new or virgin and spent bone black has greatly advanced during the past four years. We submit, therefore, that bones of all description and bone black, or animal carbon, either new or spent, should be admitted free of duty.

Very respectfully,

R. B. DAVIS Co.

BRIEF OF ALEX. HOLTHUSEN, NEW YORK, N. Y.

NEW YORK, *March 25, 1912.*

THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE,

Washington, D. C.

DEAR SIR: I beg leave to state that I am an importer of crude bones which, until the 21st of August last year, I was permitted to bring in here free of duty; since then a duty of 10 per cent is levied on same. According to inquiries made by the Treasury Department with reference to a shipment I brought into Philadelphia in March, 1910, it was established that the bones had been boiled some hours after the knuckles were cut off and afterwards dried in the sun, which bleaches the article and makes the bones white.

The desirable bones are the round and flat shin bones taken from the fore and hind feet of the cattle. Of this kind there are not enough to go around and the price in this country has risen about 50 per cent within 10 years. I export a few hundred tons of thigh bones during a year, which our home manufacturers do not find profitable to cut up.

The countries they are shipped to let them come in free of duty. In the revision of the tariff I beg that bones not manufactured into any article will be put on the free list. A duty of 10 per cent is nearly prohibitory.

Very respectfully,

ALEX. HOLTHUSEN.

PARAGRAPH 516.

Books, engravings, photographs, etchings, bound or unbound, maps and charts imported by authority or for the use of the United States or for the use of the Library of Congress.

PARAGRAPH 517.

Books, maps, music, engravings, photographs, etchings, bound or unbound, and charts, which shall have been printed more than twenty years at the date of importation, and all hydrographic charts, and publications issued for their subscribers or exchanges by scientific and literary associations or academies, or publications of individuals for gratuitous private circulation, and public documents issued by foreign governments.

PARAGRAPHS 516-520—BOOKS, PHOTOGRAPHS, ETC.

PARAGRAPH 518.

Books and pamphlets printed chiefly in languages other than English; also books and music, in raised print, used exclusively by the blind.

PARAGRAPH 519.

Books, maps, music, photographs, etchings, lithographic prints, and charts, specially imported, not more than two copies in any one invoice, in good faith, for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe.

PARAGRAPH 520.

Books, libraries, usual and reasonable furniture, and similar household effects of persons or families from foreign countries, all the foregoing if actually used abroad by them not less than one year, and not intended for any other person or persons, nor for sale.

BOOKS, PHOTOGRAPHS, ETC.

SUGGESTIONS OF FRANCIS E. HAMILTON, NEW YORK, N. Y.

[Free list. Pars. 517, 519 650, 714, 715.]

WAYS AND MEANS COMMITTEE.

GENTLEMEN: On behalf of the great public art and educational institutions of the country, I submit the following suggested substitute for paragraphs 517, 519, 650, 714, and 715.

Respectfully,

FRANCIS E. HAMILTON.

SUBSTITUTE FOR SECTIONS 517, 519, 650, 714, 715.

Books, maps, music, engravings, photographs, etchings, bound or unbound, and charts, which shall have been printed more than 20 years at the date of importation, and all hydrographic charts, and publications issued for their subscribers or exchanges by scientific and literary associations or academies, or publications of individuals for gratuitous private circulation, and public documents issued by foreign Governments; also books, maps, music, photographs, etchings, lithographic prints, and charts, specially imported, not more than two copies in any one invoice, in good faith, for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library; also philosophical and scientific apparatus, utensils, instruments, and preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library; also works of art, drawings, engravings, photographic pictures, and philosophical and scientific apparatus for use temporarily for exhibition and in illustration, promotion, and encouragement of art, science, or industry in the United States; also works of art, collections in illustration of the progress of the arts, sciences, or manufactures, photographs, works in terra cotta, parian, pottery, or porcelain, antiquities and artistic copies thereof in metal or other material, imported in good faith for exhibition at a fixed place by any State or by any society or institution established for the encouragement of the arts, science, or education, or for a municipal corporation, and all like articles imported in good faith by any society or association, or for a municipal corporation for the purpose of erecting a public monument. Any and all of the above imported in good faith only for the purposes mentioned and not for sale, shall be admitted free of duty upon oath from any authorized officer of the society, institu-

PARAGRAPHS 516-520—BOOKS, PHOTOGRAPHS, ETC.

tion, college, academy, school, seminary of learning, corporation, association, and without bond, under regulations to be prescribed by the Secretary of the Treasury: *Provided*, That the privileges of this and the preceding section shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character.

MUSEUM OF FINE ARTS,
Boston, Mass., January 27, 1913.

FRANCIS E. HAMILTON, Esq.,
32 Broadway, New York City.

DEAR SIR: We have examined your proposed substitute for sections 517, 519, 650, 714, and 715 of the tariff regulations and would be happy to have you refer to us as indorsing the proposed change.

Hoping you may be successful in securing these alterations in the regulations, I am,
Yours, very truly,

MORRIS CARTER, *Assistant Director*.

THE BUFFALO FINE ARTS ACADEMY,
ALBRIGHT ART GALLERY,
January 25, 1913.

FRANCIS E. HAMILTON, Esq.,
32 Broadway, New York City, N. Y.

DEAR MR. HAMILTON: I most heartily do approve of the new paragraph substituting for the old ones, 517, 519, 650, 714, and 715, and I do hope with all my heart that the authorities will see fit to change and allow this one to go into action. The works of art which we import for our museum from the other side are simply for the education of the American people, and it does seem as though the customs ought to be willing to help us, as this work is such a great one.

I trust you will be able to pass this amendment and waiting anxiously to hear from you again and thanking you for calling my attention to it, I remain,

Very sincerely, yours,

CORNELIA B. SAGE, *Director*.

THE ART INSTITUTE OF CHICAGO,
January 25, 1913.

MR. FRANCIS E. HAMILTON,
32 Broadway, New York, N. Y.

DEAR SIR: I hasten to reply to your letter of January 24.

I very heartily approve of the proposed paragraph of the tariff act which you inclose. It would be an immense relief to the art museums if it were adopted, and no possible damage could be done to anybody.

There will be a stated meeting of our trustees next Thursday, January 30, and I will submit the subject for an official expression, which I hope may not be too late to be of service.

Yours, very truly,

WM. M. R. FRENCH, *Director*.

P. S.—I notice the expression "boxes and bottles containing the same." Would it not be well to specify the frames belonging to pictures? They now tax them separately.

THE CENTRAL MUSEUM,
Brooklyn, N. Y., January 27, 1913.

FRANCIS E. HAMILTON, Esq.,
32 Broadway, Manhattan, N. Y.

DEAR SIR: Any procedure which will relieve our museum of the inconvenience and expense attached to the importation of educational material through the customhouse is most acceptable to this institution. I therefore heartily approve of the proposed substitute for sections 517, 519, 650, 714, and 715, and trust you will be successful in having it accepted by the Ways and Means Committee of Congress.

Very truly, yours,

W. H. FOX.

PARAGRAPH 516-520—BOOKS, PHOTOGRAPHS, ETC.

CARNEGIE INSTITUTE,
Pittsburgh, Pa., January 28, 1913.

FRANCIS E. HAMILTON, Esq.,
82 Broadway, New York City, N. Y.

DEAR SIR: Your letter of January 23, with a copy of a proposed substitution for sections 517, 519, 650, 714, and 715 of the present tariff regulations was received.

I think your request to be presented to the Committee on Ways and Means for a modification of the existing sections is a reasonable one, and I hope you will include in your request to the Ways and Means Committee the request that the regulations under which paintings are imported for free exhibition by institutions founded for the advancement and encouragement of art may also be so modified as to make it possible for one public institution to transfer a painting to a sister institution of like character established for the advancement and encouragement of art and have the first institution's bond canceled and the second institution's bond accepted instead thereof.

The transfer of a painting which is brought to America for the legitimate purpose of exhibition to a sister institution for a like purpose should be freed from the troublesome and harassing labor connected with transferring the picture under the original institution's bond. The whole purpose of bringing the picture to America is to afford our people education in the fine arts, and the way to do this should be made as easy as possible. If the second institution, or the one receiving the painting from the institution originally importing the work, is a responsible institution, there is no reason why it should not be accepted by the Government and the second institution given the privilege of exporting the picture at the conclusion of its exhibition.

Very sincerely,

JOHN W. BEATTY, *Director of Fine Arts.*

BRIEF OF W. C. MARLEY, NEWARK, N. J., CONCERNING PHOTOGRAPHS.

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 29, 1913.

The WAYS AND MEANS COMMITTEE,
House Office Building, Washington, D. C.

GENTLEMEN: One of my constituents has requested me to urge the retention upon free list of such photographs as are not intended for sale, or the placing of them on the free list, and I inclose herewith a memorandum in regard to the matter received from him.

Very truly, yours,

WALTER J. MCCOY.

[Inclosure.]

REQUEST FOR RETENTION ON OR ADDITION TO FREE LIST OF PHOTOGRAPHS, EITHER MOUNTED OR UNMOUNTED, WHEN SAME ARE NOT INTENDED FOR SALE.

Examples.—Photographs presented to museums, libraries, colleges, schools, societies, etc.; photographs sent to similar institutions for exchange; portfolios of photographs sent for circulation among members of photographic societies.

Reasons.—First, the public interest would be served by encouraging education and art and by eliminating annoying formalities; second, no American commercial photographer or manufacturer of photographic goods would be benefited were such a duty imposed, but rather the reverse; third, the amount of revenue derived from such duty would be very small; fourth, appraisal of values would be most difficult to make.

Respectfully,

W. C. MARLEY.

PARAGRAPH 521.

Brass, old brass, clippings from brass or Dutch metal, all the foregoing, fit only for remanufacture.

PARAGRAPH 522.

Brazilian pebble, unwrought or unmanufactured.

PARAGRAPH 523.

Bristles, crude, not sorted, bunched, or prepared.

PARAGRAPH 536—COAL-TAR PRODUCTS.

PARAGRAPH 524.

Bullion, gold or silver.

PARAGRAPH 525.

Burgundy pitch.

PARAGRAPH 526.

Cadmium.

PARAGRAPH 527.

Camphor, crude, natural.

PARAGRAPH 528.

Castor or castoreum.

PARAGRAPH 529.

Catgut, whip gut, or worm gut, unmanufactured.

PARAGRAPH 530.

Cerium, cerite, or cerium ore.

PARAGRAPH 531.

Chalk, crude, not ground, bolted, precipitated, or otherwise manufactured.

PARAGRAPH 532.

Chromate of iron or chromic ore.

PARAGRAPH 533.

Civet, crude.

PARAGRAPH 534.

Clay: Common blue clay and Gross-Almerode glass-pot clay, in cases or casks suitable for the manufacture of crucibles and glass melting pots or tank blocks.

PARAGRAPH 535.

Coal, anthracite, and coal stores of American vessels, but none shall be unloaded.

PARAGRAPH 536.

Coal tar, crude, pitch of coal tar, and products of coal tar, known as dead or creosote oil, benzol, toluol, naphthalin, xylol, phenol, cresol, toluidine, xylin, cumidin, binitrotoluol, binitrobenzol, benzidin, tolidin, dianisidin, naphthol, naphthylamin, diphenylamin, benzaldehyde, benzyl chloride, resorcin, nitro-benzol, and nitro-toluol, naphthylaminsulfoacids and their sodium or potassium salts, naphtholsulfoacids and their sodium or potassium salts, amidonaphtholsulfoacids and their sodium or potassium salts, amidosalicylic acid, binitrochlorbenzol, diamidostilbendisulfoacid, metanilic acid, paranitranilin, dimethylanilin; all the foregoing not medicinal and not colors or dyes.

COAL-TAR PRODUCTS.

TESTIMONY OF J. F. SCHOELLKOPF, REPRESENTING SCHOELLKOPF, HARTFORD & HANNA CO.; HELLER & MERZ CO.; CENTRAL DYESTUFF CHEMICAL CO.

The witness was duly sworn by the chairman.

Mr. SCHOELLKOPF. Mr. Chairman, before reading the brief I have prepared on the free list I would like to call your attention again to the highly competitive nature of our industry. Last year there were 85 per cent of the consumption of coal-tar dyes imported; and I am afraid that if an attempt is made to make that industry more competitive by either decreasing the rate or putting the raw materials on the dutiable list it will soon result very disastrously to us. If you are going to do that or reduce the duty on the finished colors we are liable to have no competition at all, for the reason that the

PARAGRAPH 536—COAL-TAR PRODUCTS.

industry could not stand it. It is pretty close to the cushion now and couldn't stand much more competition from abroad. Another thing: From a purely revenue standpoint, by reducing the duty on colors you are bound to lose 5 per cent, as proposed in the last bill.

The CHAIRMAN. How many manufacturers are engaged in this business in this country now?

Mr. SCHOELLKOPF. Three—four.

The CHAIRMAN. Hasn't a large manufacturer formed a combination, or hasn't there been a purchase of plants by some of them recently?

Mr. SCHOELLKOPF. No, sir; not that I know of.

Mr. DIXON. What is the total production of this in the United States?

Mr. SCHOELLKOPF. Why, the total domestic production is less than a million and a half.

Mr. DIXON. How much is imported?

Mr. SCHOELLKOPF. Nearly \$8,000,000, by adding a 30 per cent duty to the import value. As I was saying, the revenue you would lose by reducing the duty on the colors 5 per cent is bound to be \$300,000 on last year's imports; and even if the imports should increase \$1,000,000, then the revenue would be less than under the present duty by \$50,000. But of course if importations increased \$1,000,000 that would practically wipe out the American manufacturers.

Mr. HARRISON. But you have perhaps realized that the chief reason of the reduction proposed is because they are used by textile manufacturers, and other bills have passed the House greatly reducing the duty for the textile men. So that it is not proposed for the sake of revenue, but for the sake of the consumer.

Mr. SCHOELLKOPF. Well, I don't see, Mr. Harrison, how the consumer is going to be benefited by a reduction of 5 per cent. It won't be \$300,000. Now, if you distribute that over all the consumers, it is merely infinitesimal, as it—

Mr. HARRISON. Well, now, just let me interrupt you one moment, Mr. Schoellkopf. The greater portion of our consumption of these products in this country is imported, is it not?

Mr. SCHOELLKOPF. Yes, sir.

Mr. HARRISON. So that there is no question as to who pays the tax; there can be no question can there? If three-fourths of it is imported, the impost duty is considerable, is it not?

Mr. SCHOELLKOPF. It would seem so.

Mr. HARRISON. Well, as to the three-fourths that are imported, they have to pay the customs duty, don't they?

Mr. SCHOELLKOPF. Yes, sir.

Mr. HARRISON. Well, as to the three-fourths, does the duty raise the price?

Mr. SCHOELLKOPF. Well, now, a reduction of 5 per cent would affect three-fourths of the stuff consumed in the United States. We would save \$300,000 after the—

Mr. HARRISON. We proposed this as a matter of economy to the consumer and not for the purpose of raising revenue.

Mr. SCHOELLKOPF. I would say that \$300,000 distributed over the consumers, whether manufacturers or ultimate consumers, is not going to make any difference in the cost of the industry. That is one

PARAGRAPH 536—COAL-TAR PRODUCTS.

phase of it, but it is not all, because we have a case like alizarin, which was selling at 11 cents a pound when paying a duty, now 22 cents a pound, and they let it come in free.

The CHAIRMAN. Well, isn't it a fact that in the matter of alizarin there were two factories or plants making alizarin in this country and one sold out to the other, so that there is only one now?

Mr. SCHOELLKOPF. No; so far as I know, alizarin was never made in this country.

The CHAIRMAN. Isn't it manufactured here now?

Mr. SCHOELLKOPF. No, sir; I think not. Alizarin and the alizarin colors are controlled by two or three large manufacturers on the other side.

Mr. HARRISON. I beg your pardon, but you are not now talking about the same articles. The articles which you first mentioned are protected by a 30 per cent duty. Alizarin and anthracene are on the free list.

Mr. SCHOELLKOPF. Yes; I think anthracene colors are on the free list.

Mr. HARRISON. Yes; they were specifically excepted and put upon the free list

Mr. SCHOELLKOPF. It is a matter of experience. The fact that you reduce the duty on these colors does not make them any cheaper to the consumer. In these particular cases they went up in price. In other words, I think the competition that we are giving them here has a great deal to do with the cheap prices that these colors are selling at.

Mr. HARRISON. Had alizarin and indigoes ever been manufactured synthetically in the United States?

Mr. SCHOELLKOPF. No; because they were always on the free list, and they would cost less to manufacture in other countries. It shows the power of competition. Under an absolutely open market we never could do away with competition. While they were in competition among themselves, the Government took the duty off, but instead of benefiting the American consumer we see it was otherwise.

Mr. HARRISON. The foreigners combined among themselves?

Mr. SCHOELLKOPF. Yes. In other words, if you reduce the duty now and eliminate American competition, then the chances are that they would get together and put the price up.

The CHAIRMAN. A trust, would it be?

Mr. SCHOELLKOPF. That is what it would amount to. But as to the ultimate consumer, you realize, I think, Mr. Harrison, that he will not benefit.

Mr. HARRISON. I didn't admit that at all. It would be a benefit very greatly to be able to buy textile cloths cheaper, and if we do that in justice to the textile manufacturer we ought to reduce pro tanto the goods that the textile manufacturer concerned buys, and we know he buys.

Mr. SCHOELLKOPF. I do not agree with you. I don't think it is going to make any difference to the United States, as far as the ultimate consumer is concerned. It would make a difference of \$50,000, and he could not distribute—

Mr. HARRISON. Mr. Schoellkopf, that is the argument every manufacturer who has come before us has made, and at the same time the

PARAGRAPH 536—COAL-TAR PRODUCTS.

sum total of all these comparatively small reductions will amount to a very considerable sum.

Mr. SCHOELLKOPF. I desire to proceed with the reading of this brief if I may. (Reads brief.)

Mr. HARRISON. Suppose it is decided that we have enough revenue in this bill and leave these products on the free list, would you then think you could stand a reduction to 25 per cent ad valorem?

Mr. SCHOELLKOPF. You can judge as to that as well as I can.

Mr. HARRISON. Would it put you out of business?

Mr. SCHOELLKOPF. I don't believe we would go out of business. It would simply reduce our profits to that extent, and our profits are small enough. We are making now less than 5 per cent on our investment, and if we have got to sell our colors 5 per cent cheaper it would practically wipe out all our profits. We are making 5 per cent, and they are making 50 on the other side.

As to this matter of patents, I know of a number of cases where the patent had expired on the other side and it was still in effect on this side, and the manufactured goods sold on this side at 10 times as much, and still the import duty was paid on the foreign valuation.

It doesn't mean anything to us if they are patented, but it doesn't seem fair that the American consumer should pay 10 times the price the foreigner pays and the American Government collect duty only on the foreign valuation.

And this other section 11 of the act, which provides for an addition of not less than 8 per cent and not more than 50 per cent on the total cost as thus ascertained: It seems to me that when an importer refuses to give a price at which an article is sold on the other side and leaves it to the inspector or appraiser to ascertain the cost where his only reason can be that his selling price on the other side is higher than he wants to pay duty on, and he figures that by leaving the inspector to ascertain the cost and then making an addition to that, he will be better off than by giving a selling price in the first place. Very often it happens that they have, for instance, conventions on the other side on certain things, and in the case of certain articles they are selling a product on the other side, say, for \$1 a pound, and in America there is no convention, and under the open market the consumer will pay for it perhaps 30 cents a pound. Well, the real selling price on the other side may be \$1, but they will import it at 22 cents a pound, only 22 cents a pound.

Mr. HILL. I think there is now one provision in the administrative portion of the bill of 1909, that under certain conditions where it is impossible to ascertain clearly the foreign market price, the domestic price may be taken as a basis. Personally I was in favor of extending that to all of them and making the duty apply to the domestic price. Is that your idea—is that your suggestion now?

Mr. SCHOELLKOPF. Why, no.

Mr. HILL. If so, the rates would have been decreased proportionately; but in the administration of the law, which in your judgment would be fairer to all parties in this country—to have a lower percentage on a uniform American valuation, or to take a varying valuation in various countries as a basis?

PARAGRAPH 536—COAL-TAR PRODUCTS.

Mr. SCHOELLKOPF. That would depend on the article itself. Some articles are sold lower in Germany than in America. Other articles, again, are under combination on the other side and sell at a very much higher price than here in the United States; and of course on those articles, if the law says they shall pay the duty on the foreign valuation, then they will have to pay it on the price at which the product is sold on the other side.

Mr. HILL. Yes; but a great many come by consignment and it is difficult to tell.

Mr. SCHOELLKOPF. You will know if the importers—

Mr. HILL. Suppose an article is manufactured over there and comes over here by consignment, how are you to know?

Mr. SCHOELLKOPF. It doesn't depend upon that for it.

Mr. HILL. Why, yes; a great many articles are manufactured for the American market only.

Mr. SCHOELLKOPF. Well, then, in that case it is just in line with the suggestion I make here that after ascertaining the cost under section 11 a minimum addition of 50 per cent and a maximum of 100 per centum be made.

Mr. HILL. Well, that would be practically applying the duty to the American value. That would come one way to it; it would not necessarily be absolutely correct. In your judgment, which would be the best plan, to apply the duty all the way through to an article, the value to be fixed daily by the customhouse, or the other way?

Mr. SCHOELLKOPF. Well, I should say on articles that are not patented in America use the foreign price, but on products which are patented use our price.

Mr. HILL. What difference does it make what you apply it to?

Mr. SCHOELLKOPF. I just want to reverse that, and to say on products which are not patented in America use the price here, and on those which are patented here to apply the foreign price.

The CHAIRMAN. Are you through, Mr. Schoellkopf?

Mr. SCHOELLKOPF. Yes, sir.

BUFFALO, N. Y., January 27, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: I desire to protest against the transferring of the coal-tar products now on the free list and covered by paragraphs 482, 536, 491, and 639 of the Payne bill to the dutiable list, as contemplated by H. R. 20182, paragraphs 1, 23, and 24.

These products enter very largely into the manufacture of our coal-tar colors, and we have shown in our briefs submitted to you under date of January 6 and 23 that even with products on the free list and a duty of 30 per cent on the coal-tar colors we are barely able to hold our own against our foreign competitors.

We believe it is not contended that the proposed duties are levied for the purpose of protection and to stimulate the manufacture of these products in America. The revenue under any conditions, however, would not be large, and if the American manufacturers of coal-tar colors should be obliged to curtail their consumption of these taxed products the income from this source would be trifling.

Under present conditions it is obviously impossible for us to stand an increase in the cost of our raw materials, as in that case the duty on coal-tar colors should be increased to at least 35 per cent rather than be reduced to 25 per cent, as contemplated under paragraph 21 of H. R. 20182.

Section 28 of the tariff act of 1909 refers to an act entitled "An act to simplify the laws in relation to the collection of the revenues."

PARAGRAPH 536—COAL-TAR PRODUCTS.

Section 11 of this act refers to the method of ascertaining the cost of an article offered for import on which the actual market value can not be ascertained, and provides for an addition of not less than 8 and not more than 50 per cent upon the total cost as thus ascertained. I would suggest that the minimum addition be raised to 50 per cent and the maximum addition be raised to 100 per cent.

I would also suggest that a provision be inserted in this act requiring the importer to state whether the merchandise imported was protected by United States patent, and providing further that if after making due allowance by deduction for estimated duties, such patented products are sold at higher prices in the United States than in the exporting markets, then the American prices shall be taken as a basis for the import duty. If, on the other hand, American prices on such patented products, after making due allowance by deduction for estimated duties, are the same or lower than in the exporting markets, then the ad valorem duty shall be paid on the foreign valuation.

It frequently happens that the American patents remain in force after the foreign patents have expired, and it seems only fair that in such cases the United States Government should profit to some extent in return for the protection granted such patented products.

Respectfully,

SCHOELLKOPF, HARTFORD & HANNA Co.,
By J. F. SCHOELLKOPF, *President*.

**TESTIMONY OF A. H. WASHBURN, OF COMSTOCK & WASHBURN,
12 BROADWAY, NEW YORK.**

The witness was duly sworn by the chairman.

Mr. WASHBURN. Very briefly I want, first of all, to direct attention to paragraph 536 of the other law, which, among other things, provides for products of coal tar known as dead or creosote oil. Creosote oil for many years has been on the free list. It is a very important article in the preservation of timber. That importance has increased of late years very much indeed. Aside from a minor use as a material in manufacturing disinfectants, creosote oil is almost exclusively employed as a wood preservative. The importance of keeping it on the free list in view of our rapid forest denudation, I shall not dwell upon myself. Others will touch upon that phase of the matter.

What I do want to direct the attention of this committee to is that there are various grades of creosote oil. That arises from the fact that creosote oil, as commonly made now, is a coal-tar derivative. Since the introduction of what is known as the coke-oven industry, creosote oil is made in this manner very largely. As a matter of fact, the domestic production can not begin—and that is admitted by the domestic producers themselves—to keep pace with the domestic consumption. Various kinds of coal are used in the coke-oven industries, with the result that you get creosotes of what is called high-boiling properties and creosotes of low-boiling properties. Formerly the kind of creosote coming into the market was almost exclusively a low-boiling oil. It was supposed at one time that the tar acids, which are found in the low-boiling oils, were desirable ingredients in wood preservation. That theory has been exploded. The Department of Agriculture has conducted some very important investigations in the last few years. They have embodied these investigations in various brochures, to which I have referred in my brief, and the experts in charge of the investigations have reached the conclusion that oils of high-boiling proper-

PARAGRAPH 536—COAL-TAR PRODUCTS.

ties—that is to say, oils which are less volatile—are more desirable as wood-preserving agencies, for the very natural reason that they stay longer in the wood than the more volatile oils.

Now, what I want to say is this: There has been a controversy going on within the last few years between the classifying officials and some of the dealers in creosote oils as to what the term creosote embraces, and my proposition is that whatever disposition this committee makes of creosote oil, the high boiling oils, provided they are direct derivatives of coal tar, just as creosote oil is, be provided for the same as the low boiling oils, either free of duty as it now is, or at the rate that this committee in its wisdom desires to propose.

MR. HARRISON. Before you leave that point will you explain to the committee just exactly what is the controversy by which it was made to appear that creosote oil, which some claimed was entitled to be taxed at 20 per cent, and by Executive decision it was transferred to the free list?

MR. WASHBURN. Yes; creosote oil, as you will see from the same paragraph, is under the *eo nomine* provision for “products of coal tar, known as dead or creosote oil.” There was one faction which said that that was limited to a variety of distillates which were low boiling in character. I mean by this those oils, the vapors of which distill over at certain temperatures, and formerly, many years ago, creosote oil distilled over at between 240° to 270° C. Now that has been changed. As a matter of fact the consumers of creosote oil now impose a minimum limit on the amount of oil which will distill over at the low-boiling fractions. They want the high-boiling oil, and the department, I think, at one time stated that everything that distills over—the most of which distills over at 320° C.—should be regarded as creosote oil, and everything distilling over beyond that point eliminated from classification as creosote oil. That was a mere arbitrary provision. Now, these oils are all derived in the same way. I mean they are derivatives of coal tar.

MR. HARRISON. Now allow me to ask you—the language which we meant in paragraph 23 was coal-tar products known as dead and creosote oil. Now, that is what you refer to as primary, positive derivatives; not boiling?

MR. WASHBURN. No; high-boiling as well as low-boiling are direct derivatives.

MR. HARRISON. And you think we ought not to tax them at 5 per cent?

MR. WASHBURN. That is my opinion. The theory was at one time that these high-boiling oils were anthracene oils, because anthracene oil is a derivative of coal tar, and therefore a high-boiling oil.

MR. HARRISON. You state that that would be eliminated?

MR. WASHBURN. Well, it has been shown that anthracene, which is a constituent of anthracene oil, has been eliminated. So now the department in its contention for duty on this high-boiling oil says that it is a high-boiling oil. It does not say that it is anthracene.

MR. HILL. Is that correct? Don't they say they base their theory on the fact that there was less than 1 per cent of the product left in the oil? It said that if it was less than 1 per cent it should be free, and if it was more than that it should not be free?

PARAGRAPH 536—COAL-TAR PRODUCTS.

Mr. WASHBURN. Yes, Mr. Hill, that was one ground on which they based their decision.

Mr. HILL. But the claim they made was that if there was any of it left in, it should be dutiable; but the Treasury Department took the position that it could not be extracted.

Mr. WASHBURN. I think the Treasury Department made this ruling. It said when chlorine is present that this oil has been manipulated with certain foreign agents, such as zinc chloride, and therefore the presence of chlorine is determinative of that fact. Now, as to this particular oil that I am talking about here, the testimony showed that it was a direct derivative and there was perhaps 0.004 of 1 per cent of chlorine found in the oil, due to its mineral properties. I agree that if 1 per cent of chlorine is found in the oil it should be excluded from the free list.

I am talking about something that is a direct derivative of coal tar, and that is, as a matter of fact, a high-boiling oil, and the only suggestion I make is that under the provision as you have framed it up in the chemical schedule, "Coal-tar products known as dead and creosote oil," you add these words "and other oils derived from coal tar used chiefly as wood preservatives."

Now, that would eliminate all possible controversy.

Mr. HILL. Would that eliminate, say, creosote oil which had been subsequently treated with chlorine?

Mr. WASHBURN. I think it would, because they would say that was a manufactured oil. It is something beyond this thing that is directly derived from coal tar. I think it would, Mr. Hill.

Now, I want to say just a word about one or two other things, administrative features of the law, and one of them is the treatment of samples. There is a controversy between the Treasury Department and the Board of General Appraisers about that. The Treasury Department is perfectly willing now, as I read their T. D.'s, that commercial samples shall be admitted under certain restrictions, on the theory that samples are incidents of commerce rather preliminary to importations than actual importations in the strict sense. Now, the Board of General Appraisers has taken the view that when a man brings in some commercial samples he exposes himself to the penal provisions of the administrative law unless he declares the actual value that was paid for these samples, notwithstanding the fact that they have no commercial value except for illustrating purposes; and the suggestion I make is—it is elaborated somewhat in the brief, I think it has the concurrence of the Treasury Department—that this committee legislate as to samples in such a way as to enable them to come in free, under the supervision of the Secretary of the Treasury—say, in bond for six months—let the department have supervision over the matter. That, I think, will check all improper practices.

Just one other thing. I have here another suggestion which goes to a modification of the present provision under which the Secretary of the Treasury may not under any circumstances remit penalties upon entry. Now, that is something which, if it is to be modified at all, I quite concede ought to be done under strict departmental supervision. For example, a merchant will contract for goods abroad and covering a certain period, and he enters those goods at that figure, that is

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the price which he actually paid, extending over a certain period. It is possible that the market value may have increased between the date of purchase and the date of shipment. It is possible, too, that the appraising officer may have another theory about it. He thinks he has got some evidence—he may not have it, but he thinks he has got some evidence—that the entered value is incorrect; that it is too low, and therefore he raises that value upon entry. Now, before that controversy can be determined—the merits actually ascertained by the Board of General Appraisers—some weeks or some months may ensue. In the meantime he is receiving other importations, and practically under duress to avoid the penalties he adds to the declared value upon entry to meet the appraisers' views. Now, in a case of that sort, what I am trying to suggest is that some provision be enacted under which he could add upon entering under protest, and if his contention is ultimately sustained only in that event as to valuation, then he could eventually get his money back and not be subject to the penalty.

Now, it may be provided for in some way, as, for instance, that the Secretary should remit; put it into the hands of the administrative officers.

Mr. HARRISON. Is not there some such law under the internal revenue?

Mr. WASHBURN. The internal revenue is a little different. You do not have questions of valuation as you have here.

Mr. HARRISON. But there is discretion, and in one of the sections of the internal-revenue act it gives to the Secretary some discretion as to compromising or withdrawing suit.

Mr. WASHBURN. Yes; that is so. The law is now so drastic that it says that the Secretary of the Treasury can not remit any penalties; and there is another provision of the statutes which says that the importer must pay upon his entered value. So he has no remedy as the law now provides. The Secretary may now remit in that class of cases where there is what is called a manifest clerical error, but only that, and if his discretion were enlarged somewhat in this respect I think it would be a wise amendment to the statute.

ST. LOUIS, Mo., January 27, 1913.

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: We are importers and dealers in creosote oil, which has specifically been provided for on the free list for many years past either as creosote oil or as a product of coal tar, which it is in point of fact according to the modern methods of production. Originally creosote was a name applied to a product obtained from petroleum or wood about 1840. Since the introduction of the coke-oven tar industry, distillates from coke-oven tar have been denominated creosote. Aside from a minor use in the manufacture of disinfectants the exclusive use of creosote oil is as a wood preservative. The economic aspect of wood preservation is universally recognized and has attracted widespread attention. The Forest Service, United States Department of Agriculture, has devoted much research to this important work. A reference to the tariff hearings of four years ago will show the overwhelming demand for the retention of creosote oil upon the free list and the reasons for it. There is every reason to believe that the same demand and reasons exist to-day—they are if possible geographically more distributed than ever before—and we have no doubt they will be voiced here. We will not, therefore, dwell upon the desirability of retaining creosote oil upon the free list.

What we do desire especially to call attention to is the importance of employing language in the new act which will embrace without question all grades of creosote oils. There are in fact many different grades, because creosote oil, like the sub-

PARAGRAPH 536—COAL-TAR PRODUCTS.

stance coal tar from which it is derived, is a very complex body without any definite chemical formula. The result is an article not with constant constituents but with varying constituents. Some creosotes contain heavy oils with what the chemists call high boiling points and others contain the lighter and more volatile oils with much lower boiling points. Some years ago the lower-boiling creosotes were most generally found. But of late years it has come to be recognized, as a result of more careful scientific investigation, that the heavier-boiling oils, not being so volatile, impregnate the wood for a longer period and are therefore more desirable as wood-preserving agents.

Because creosote oil has no definite chemical formula more or less controversy has arisen as to its classification. An effort has been made to exclude the higher-boiling oils from classification as creosotes. A reference to Circular No. 80 on the "Fractional Distillation of Coal-Tar Creosote" and No. 112, "The Analysis and Grading of Creosote," United States Department of Agriculture, Forest Service, will show, however, that the experts who have conducted elaborate investigations for the Government have long since recognized that the term "creosote oil" embraces the higher as well as the lower boiling oils as long as they are direct derivatives of coal tar. Indeed, Mr. T. H. Davis, one of the leading manufacturers of American creosote oil—a producer, it should be said, of the lower-boiling creosotes which are heavy in tar-acid contents as opposed to the high-boiling creosotes which are practically free of tar-acid contents—in an article written for the Philippine Bureau of Forestry and printed in the Oil, Paint, and Drug Reporter of February 14, 1910, frankly concedes much that the Government investigators have long known. He says:

"Coke-oven creosote is of high specific gravity, contains considerable naphthalin and anthracene oils and low content of tar acids.

* * * * *

"A precise definition of creosote, such as used commercially for the preservation of timbers and such like purposes, is by no means easy; in fact, it seems an impossible task because of the varied opinions consumers hold as to the value of its use, which result in so much difference in specifications. That which one may characterize as creosote would not be tolerated by another.

"A normal specific gravity will not do, for in only five specifications there is a range from 1.015 to 1.120. (The latter, from observation, is evidently creosote mixed with coal tar.)

"Tar acid contents is not applicable because of the varied opinions of consumers as to the value of the presence of these bodies.

"Naphthalin content is equally misleading, for while some consumers require naphthalin free creosote, others require 20 per cent to 40 per cent to be present.

"Heavy oil and residue percentages vary much, according to the character of the wood to be treated and its intended location, so that these can not be used as a basis for definition. It seems as if consumers look upon it as impossible to accept a standard for creosote that distillers will have to do their best to meet the varied requirements."

In the same article Mr. Davis also concedes that domestic tar distillers can not begin to supply the domestic demand. He says:

"In this connection it must be remembered that American tar distillers can not even approach the needed supply of creosote from coal tar, as required for preserving processes in this country, it being conservatively estimated that not more than 30 per cent of that required can be furnished by American distillers direct from coal tar. This means that very large quantities must be imported or supplied from other sources."

For the year ending June 30, 1912, 50,319,735.50 gallons, having a value of \$2,284,844.96, were imported, which shows the widespread domestic consumption of this important article of commerce. In the present tariff act, paragraph 536, it is provided for as "products of coal tar known as dead or creosote oil," together with various other coal-tar derivatives, some of them possessing very scientific names and being in fact secondary derivatives obtained as the result of elaborate manipulation. We note in a recent House bill covering the chemical schedule this provision:

"23. Coal-tar products known as dead and creosote oil, soluble and sulphonated dead and creosote oil, anthracene and anthracene oil, benzol, naphthol, resorcin, toluol, xylol; all the foregoing not medicinal and not colors or dyes, 5 per cent ad valorem."

The present free-list provision, 536, does not provide for the coal-tar product known as anthracene oil, which is also a high-boiling oil, and our article was at one time assessed for duty upon the theory that it was an anthracene oil. This particular theory has now, however, been abandoned. We would suggest language in the new

PARAGRAPH 536—COAL-TAR PRODUCTS.

act which would remove all possible doubt and controversy, as we assume that it is the intent of Congress that all coal-tar oils used precisely as dead and creosote oils are used should be accorded the same treatment. We would therefore suggest the following modification:

"Coal-tar products known as dead or creosote oil, and other oils derived from coal tar used chiefly as wood preservatives, soluble and sulphonated dead and creosote oil, anthracene and anthracene oil, benzol, naphthol, resorcin, toluol, xylol; all the foregoing not medicinal and not colors or dyes, 5 per cent ad valorem."

Respectfully submitted.

GERHARD BROS. & SCHOCH,
By COMSTOCK & WASHBURN,
Attorneys at Law.

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

On behalf of various clients, including H. B. Claflin Co., John Pullman & Co., Royal Embroidery Works, Zahner & Schiess Co., Witcombe, McGeachin & Co., James Elliot & Co., Fensterer & Ruhe, Samstag & Hilder Bros., A. Steinhardt & Bro., Chas. F. Welek & Co., St. Louis, Mo., and others, we respectfully ask to have a provision inserted in the free list for:

"Samples intended for use merely as samples by which to sell the class of goods which they represent, subject to such regulations as the Secretary of the Treasury shall prescribe."

The reasons for this request are:

First. It is logical, encouraging to broader business, and clearly advantageous to the consumers that "samples brought into this country for the purpose of soliciting orders, not intended for sale, and which do not mingle in the commerce of the country, should not be considered as imported merchandise within the meaning of the tariff act." "They are," as the Secretary of the Treasury pointed out in T. D. 31771, "incidents of commerce, rather preliminaries to importations than actual importations in the strict sense."

Second. This question of the dutiability of samples has been the source of almost unending litigation, as shown by T. D. 4828, 6132, 8943, 9069, 9243, 9462, 9939, 10134, 12562, G. A. 1246, T. D. 12626, G. A. 1275, T. D. 12645, G. A. 1294, T. D. 13445, G. A. 1782, T. D. 22815, T. D. 23111, G. A. 4940, T. D. 26567, T. D. 26675, T. D. 28834, also Abstracts 10236, 10621, 11005, 11144, 11822, 10509, 10542, 12406, 12407, 12217, 12702, 13196, 13300, 13637, 13666, 14113, 14070, 15588, 16984, 17689, 17843, 18647, 19375, 19657, 21421, also T. D. 31136, T. D. 30821, T. D. 31335, Abstract 24900, and T. D. 31429, Abstract 25110; and a considerable number of protests on this issue are still pending before the Board of General Appraisers for trial.

Third. Although the Secretary of the Treasury, in T. D. 31771 and T. D. 32082, officially recognized the justice and advisability of permitting such samples to be admitted free of duty, and specifically directed that they should be admitted free, his instructions have been disregarded and overruled by the Board of General Appraisers in numerous recent decisions, including T. D. 32681 (Abs. 29155), T. D. 32776 (Abs. 29547/8), T. D. 33780 (Abs. 29585), T. D. 32943 (Abs. 30490 and Abs. 30534), T. D. 32997 (Abs. 30682), T. D. 33031 (Abs. 30801), and T. D. 33055 (Abs. 31011 and 31012), the board uniformly taking the position that when such samples have been given either an invoiced value or an appraised value duty must be assessed upon that value, and that the Secretary of the Treasury has no power or authority to nullify in any way the provision of the law, section 28, subsection 7, of the act of August 5, 1909, that "the duty shall not, however, be assessed in any case upon an amount less than the entered value."

Fourth. Under the present practice importers are confronted by the dilemma that even though they are satisfied that the samples are of no commercial value they must, as required by section 28, subsection 5, of the act of August 5, 1909, state in their declaration that the invoice figures represent the actual cost of the merchandise, and they can not enter the samples as of no value without subjecting themselves to liability for additional duties and penalties; while on the other hand they can not enter the samples at their invoice value or cost price without laying themselves open to the necessity, under the recent rulings of the board above cited and article 768 of the Customs Regulations of 1908, of paying duties upon that value, said article 768 providing that—

"Whenever imported goods of any description not expressly exempted from duty by law are given a value in the invoice or entry duty must be assessed, even though the appraiser returns the articles as of no commercial value."

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Fifth. The enactment of a provision for samples in the free list as herein requested, the lack of which in the present and prior tariff laws has led to so much litigation, will undoubtedly tend to minimize the number of protests, it will clarify the situation, and banish the uncertainty under which importers are now acting owing to the unfortunate circumstance that the rulings of the Board of General Appraisers are directly at variance and in conflict with the rulings of the Treasury Department.

Respectfully submitted.

COMSTOCK & WASHBURN,
Attorneys for Importers,
12 Broadway, New York City.

NEW YORK, January 29, 1913.

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: On behalf of large importing interests throughout the United States we beg to call your attention to the necessity for amendment of subsection 7 of section 28, tariff act of August 5, 1909. This section provides for the assessment of additional duties in cases where the entered value is less than the appraised value, and provides further that the duty shall not be assessed in any case upon an amount less than the entered value. The additional duties there provided for are calculated upon the basis of 1 per cent for every 1 per cent the appraised value exceeds the entered value. The section further provides that these additional duties shall not be remitted nor payment thereof in any way avoided except in cases arising from a manifest clerical error. It very frequently occurs that the entered value of merchandise of importers dealing in entire good faith with the Government is advanced by an examiner, special agent, or appraiser, also acting in good faith, but proceeding upon some mistaken theory of what constitutes market value. For example, an importer enters his goods at a certain valuation in good faith; this valuation is increased by the appraiser. The importer is then compelled to determine whether to add on succeeding entries of the same merchandise an amount sufficient to meet the examiner's or appraiser's advance and thereby avoid the possibility of a penalty (subsection 7, sec. 28) pending the determination of the real market value by the Board of General Appraisers, or continuing to enter the goods at the prices actually paid by him, but which may not be the market value, he being without precise information of what the market value is at the time by reason of having made a contract for the delivery of the goods at some other time, or for some other cause, and the law requiring that the market value prevailing at the time of shipment be taken. If the importer adds on entry to bring his value up to the value thought by the appraiser to be the correct value, he can not recover any portion of this additional duty, by reason of the provision in subsection 7 that "the duty shall not, however, be assessed in any case upon an amount less than the entered value." If he does not add on entry an amount to bring the entered value up to what the appraiser believes to be the market value, the importer is in danger of having to pay an additional duty in the event that the appraised value on the test shipment is sustained by the board of appraisers. This condition of the law has frequently been the subject of comment by the Board of General Appraisers, the last reference being on January 9, 1913, in Abstract 31056, T. D. 33106. It is suggested, therefore, that the sections above referred to be so amended to permit importers whenever their entered value is challenged by the appraiser on a particular shipment to add a sum on subsequent shipments to bring the invoice value up to the value thought by the appraiser to be the correct market value and thereby protect the Government in its duties, and at the same time lodge with the collector some form of protest which can be later called by the importer to the attention of the collector in the event that the Board of General Appraisers finds that the market value in the test shipment was the entered value. The result of this amendment would be that the Government would be protected throughout to the full amount of its duty and the importer would be permitted to recover back the duties paid upon the increased valuation when he properly protected his rights and when the reappraisement board found that the entered value was correct in the test case. In other words, the importer would always, then, be paying the full legal duty calculated on the legal market value and not as at present, when he is compelled in many cases to pay an excessive illegal duty upon an excessive illegal amount of market value.

Respectfully submitted.

COMSTOCK & WASHBURN,
Attorneys for Importers.

PARAGRAPH 536—COAL-TAR PRODUCTS.

TESTIMONY OF E. A. STERLING, REPRESENTING AMERICAN WOOD PRESERVERS' ASSOCIATION, PHILADELPHIA, PA.

The witness was duly sworn by the chairman.

Mr. STERLING. I wish to discuss section 23 of the chemical schedule, coal-tar creosote; the letter which I will present later in the form of a brief sums up this situation for your consideration. I want to say orally that this suggestion of a duty on coal-tar creosote at the present time seems to come at a time when it will most vitally affect the wood-preserving industry, for the reason that for the past year there has been a growing scarcity of coal-tar creosote. The price has advanced to a point where many large wood-consuming concerns are kept from the saving which would result from the use of treated material.

Mr. HARRISON. What is the price now per gallon?

Mr. STERLING. Approximately $8\frac{1}{2}$ cents.

Mr. LONGWORTH. Is this the stuff used on railroad ties?

Mr. STERLING. Yes, sir; it is used on railroad ties.

Mr. HARRISON. What is the price at the customhouse on imported creosote oil?

Mr. STERLING. There is no duty, so far as my knowledge goes.

Mr. HARRISON. But they keep a unit of value on it, even though they do not pay duty?

Mr. STERLING. I should say that the unit of value did not include freight. In 1911 the price of oil was about 6 cents.

Mr. HARRISON. Can it have risen so much in less than a year?

Mr. STERLING. Yes, sir. The price ranged from 8 to $8\frac{1}{2}$ cents, which is over 30 per cent increase in a little over a year; so that levying a duty would very seriously affect the whole industry. I might say that I am speaking on behalf of the American Wood Preservers' Association, which is a voluntary association maintained for the advancement of the whole industry, from both the technical and commercial standpoint.

Mr. HAMMOND. Is there anything in this country used as extensively as creosote will be for preserving wood?

Mr. STERLING. No, sir; the other preservative is zinc chloride. There has been no increase in the consumption of zinc chloride, whereas the consumption of creosote has been advancing, creating a scarcity.

Mr. HAMMOND. Neither one is used in marine timber?

Mr. STERLING. Yes, sir. Creosote is used very largely in treating marine timber.

Mr. HAMMOND. I understand that it is used on the coast—

Mr. STERLING. I could not say as to that specific case, but I do know that large amounts of creosoted timber is shipped to the West Indies and Cuba.

Mr. HAMMOND. What proportion of it is domestic and what percentage foreign?

Mr. STERLING. About 30 per cent domestic, the rest foreign; the domestic output has remained almost constant for five years. The slight increase in domestic output has been taken care of by an increase in the whole consumption. The domestic consumption will perhaps increase, but from all the information I can gather it is

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probable we will have to draw very largely on the European supply for many years to come.

Would it be your pleasure to have me read the brief which I have—it is very short—or do you prefer to ask questions?

Mr. HARRISON. It will be printed, but you can read it if you desire.

WASHINGTON, D. C., January 31, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: As chairman of a committee appointed by the American Wood Preservers' Association at the ninth annual meeting in Chicago, January 21 to 23, I should like to submit briefly the salient arguments against the proposed duty on coal-tar creosote, which we understand is covered by the chemical schedule of the tariff bill under revision by the Ways and Means Committee of the House of Representatives.

The American Wood Preservers' Association represents the various interests throughout the country which are actually engaged in the preservative treatment of timber in various forms, and includes practically all of the commercial and railroad treating plants which use creosote oil.

The preservative treatment of timber with creosote on a large scale is a development of the past 10 years, and the latest statistics of the United States Forest Service, which are for the year 1910, show a total of 65,274,887 cubic feet of timber treated with creosote, or 783,298,644 board feet.

The importance of wood preservation is shown by the fact that the life of treated timber is increased from two to five times over that of untreated timber, and to that extent the drain on the Nation's diminishing forest resources is reduced.

The United States Department of Agriculture, in Circular 118, states that "if all ties, poles, posts, piling, mine props, shingles, and structural lumber adapted to treatment were given a proper treatment, an annual saving of about 6,000,000,000 board feet would ensue." The same circular also states that the financial saving that would result in the United States—were a uniform policy adopted—would amount to \$72,000,000.

In view of the Government's policy of administering and conserving national forest lands, and of acquiring additional lands for stream protection and forest perpetuation in the Southern Appalachian Mountains, under a congressional act appropriating \$11,000,000, it appears that the logical policy should be to conserve these forest resources by reducing the consumption of timber through preservative treatment with creosote, as well as by protecting the timber at its source.

Your committee has no doubt received information from many sources elaborating on the details regarding the extent and value of the wood-preserving industry in its many phases. The specific points which we should like to bring out at the present time are:

(1) That the domestic output of coal-tar creosote has amounted to approximately only one-third of the total consumption during the past five years. Even with the efforts now being made to increase the domestic output, present developments in the wood-preserving industry are such that we shall continue to be dependent on foreign creosote to a large extent.

(2) While we must depend on the European supply of creosote or oil in the future, as in the past, there has occurred during the past year an increase in the selling price and in ocean freight rates on foreign oil which amounts to an approximate increase of over 30 per cent to the American consumer.

(3) In the case of actual or potential consumers of treated material in regions where timber is still comparatively cheap, the possible saving, in view of the present high price of creosote, is so slight over the use of untreated material that any increase in the price of creosote due to a duty would result in the use of untreated material, and, in certain cases where treatment would be practiced if creosote prices were lower, existing plants would be forced to suspend operations.

For specific reference to further arguments against the levying of an import duty on coal-tar creosote we would respectfully refer to the brief of Burdett, Thompson & Law, addressed to the Hon. Oscar W. Underwood, under date of January 10, 1913, and printed in tariff schedule No. 7, hearings before the Committee on Ways and Means.

We would also refer to a letter by E. A. Sterling while president of the American Wood Preservers' Association, addressed to the chairman of the Ways and Means Committee, under date of January 19, 1913, copy of which is hereto attached.

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We also submit herewith resolutions adopted by the American Wood Preservers' Association at their ninth annual meeting in Chicago, January 21 to 23, 1913.

In conclusion, we would respectfully submit for your consideration the advisability of referring this question to the Forest Service of the United States Department of Agriculture for an opinion as to the value of creosote treatment of timber in relation to the conservation of the national timber resources and as to the probable effect of the levying of an import duty on the wood-preserving industry.

Respectfully submitted.

WM. A. FISHER.
G. A. LEMBOKE.
E. A. STERLING, *Chairman*.

(Submitted by E. A. Sterling, 1331 Real Estate Trust Building, Philadelphia, Pa.)

JANUARY 9, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.

SIR: Our attention has been called to the fact that coal-tar creosote or dead oil of tar is listed under article 23 in the Underwood bill, now under consideration by the Ways and Means Committee. In this connection and on behalf of the American Wood Preservers' Association, which represents most of the creosote-consuming interests in the country, I should like to respectfully call your attention to a few fundamental points that would seem to fully justify a retention of coal-tar creosote on the free list.

As a first consideration the United States is producing only about 30 per cent of the creosote used in the wood-preserving industry, the remainder being imported from Great Britain and Germany. The total consumption has been increasing quite rapidly, or from 56,000,000 gallons in 1908 to 73,000,000 gallons in 1911; while the domestic output has maintained practically a constant percentage to the total amount used, being 31 per cent in 1908 and 30 per cent in 1911.

The selling price and ocean freight rates on foreign coal-tar creosote have increased, so that the consumers of creosote in the timber States who are forced to buy at least part of their oil abroad, because the domestic supply is not sufficient, now have to pay a delivered price about 25 per cent higher than a few years ago. There is an actual shortage of creosote in the European market, so that prices will likely go still higher, and if, in addition, a duty is imposed it will not only work a hardship on the wood-preserving industry, but actually result in the discontinuation of much wood-preserving work.

As a further consideration, it is clearly recognized that preservative treatment of timber is a strong factor in the conservation of our forests. Creosoted cross ties, piling, trestle timbers, and other material will last from two to four times longer than untreated material, and thereby to exactly that extent reduce the drain on our diminishing forest resources. Since the Government is expending millions of dollars in purchasing and conserving forest lands, it hardly seems consistent to put a premium, in the form of an import duty, on the preservative material which figures very largely in the work of timber conservation.

It is, perhaps, unnecessary to explain that the coal-tar creosote in which wood preservers are interested is not a manufactured product, but is a by-product of a by-product (coal tar), and is produced only when tar is distilled to recover other products.

I understand that the hearings on the chemical schedule in which creosote is included have already been held, so I should be glad to be advised of the proper procedure in order to have the matter fully explained and considered by the Ways and Means Committee.

Yours, respectfully,

E. A. STERLING,
President.

RESOLUTIONS OF THE AMERICAN WOOD PRESERVERS' ASSOCIATION REGARDING THE
LEVYING OF AN IMPORT DUTY ON COAL-TAR CREOSOTE.

[Adopted at the ninth annual meeting, Jan. 21, 22, and 23, 1913.]

Whereas it has become known to the American Wood Preservers' Association that the Ways and Means Committee of the House of Representatives of the Sixty-second Congress has under consideration a bill which provides for the levying of an import duty on dead oil of coal tar, otherwise known as creosote oil; and

PARAGRAPH 536—COAL-TAR PRODUCTS.

Whereas the domestic production of creosote oil is not nearly sufficient to meet the demand and it therefore is necessary to import large quantities of this oil from European countries; and

Whereas the total importation of creosote oil for the year 1912 amounted to approximately 60,000,000 gallons, all of which was used as in previous years for the preservation of timber, such as railroad ties, bridge and construction timber, telegraph and telephone poles, paving blocks, etc., amounting in total to approximately 750,000,000 board feet of timbers; and

Whereas the preservation of timber by treatment with creosote oil serves to increase the life of the timber from three to five times its natural life or its life untreated; and

Whereas for the reasons just given wood preservation is one of the most potent factors in the preservation of our natural timber resources and its results of the greatest and most direct aid to the Federal and State Governments in their endeavor to retard deforestation and its manifold harmful consequences and to perpetuate our forest resources; and

Whereas a duty on creosote oil would seriously interfere with the constantly increasing development of timber preservation which should be encouraged by all possible means, and be a direct contradiction of the present Government policy of forest conservation on national forests and on forest lands acquired in order that they may be conserved: Therefore be it

Resolved, That we, the American Wood Preservers' Association, in consideration of the foregoing reasons, respectfully recommend to the Ways and Means Committee of the House and to Congress that creosote oil remain on the free list as heretofore and no duty be imposed thereon.

STATEMENT OF MARCH G. BENNETT, GENERAL MANAGER OF SAMUEL CABOT (INC.), BOSTON, MASS., REGARDING CREOSOTE.

Four years ago I submitted to this committee the following brief asking that creosote be kept on the free list, where it has long been.

We are distillers of tar and refiners and handlers of creosote and other crude coal-tar products. These products are all upon the free list, and we do not ask for any change, but, noting in the statement submitted to the committee by Mr. Stewart Chaplin, representing the Semet-Solvay Co., at the hearing on Tuesday, November 10, a suggestion that the committee consider placing a duty upon creosote, accompanied by reasons why such a duty would be advisable, we respectfully call the attention of the committee to the following important reasons for continuing creosote upon the free list, where it now is under section 524:

(1) The domestic output of creosote is entirely insufficient to supply the demand, and probably three-quarters of it is handled or controlled by two large corporations, one of which is a consolidation of many small companies.

(2) The demand is practically certain to increase faster than the supply.

(3) The price of creosote is now higher than ever before and is tending upward for the above reasons.

(4) Creosote is used mostly for wood preservation; it is the best wood preservative known. The economy of preserving wood has only recently been generally recognized in this country, but now a large number of plants for wood preserving exist, and their number is growing rapidly. Railroad, mining, and other large corporations have plants for treating their ties, piles, planking, etc. Many wood-preserving companies turn out all kinds of preserved lumber for general purposes, including wood paving blocks for streets and

PARAGRAPH 536—COAL-TAR PRODUCTS.

Government contractors erect plants for treating lumber for Government docks, etc., where creosote is required as a protection against both decay and destructive worms. This industry, which is a very important factor in the conservation of our timber supply, would be handicapped by a duty.

(5) The output of tar will not be increased for the purpose of producing creosote alone, because if that were so the present high price of creosote combined with the economies of the by-product oven in other directions would already have produced the increase. It is the lack of a market for the other products of tar that keeps down the production.

(6) If for other reasons the output of tar does increase, there will be a proportional increase in the output of creosote, but it will be a great many years before the domestic production, under the most favorable conditions, will be at all adequate to supply the demand.

Every statement in the above brief can now be repeated with great emphasis. The price of creosote is much higher even than it was then, and its use in this country has increased enormously, while the domestic supply has become relatively smaller. The 5 per cent duty which is proposed by House bill 20182 will not stimulate the production of creosote in this country, but will only result in increasing the price to the consumer, because the price of creosote is established in England, where the bulk of the supply is produced, and the cost to American users will then be increased by the amount of the duty paid. This increase will apply to both imported and domestic creosote. The revenue derived will be so small as to be negligible, and certainly not sufficient to compensate for the annoyance and labor caused both to the consumer and the Government by the imposition and collection of a duty.

I therefore again respectfully urge upon your committee that there is no adequate reason for imposing a duty upon creosote and very many important reasons why it should remain on the free list.

LETTER OF BRITTON & GRAY REGARDING COAL-TAR PRODUCTS.

WASHINGTON, D. C., *January 7, 1913.*

HON. OSCAR W. UNDERWOOD,
*Chairman Committee on Ways and Means,
House of Representatives.*

DEAR SIR: In the bill H. R. 20182, as passed by the House on February 2, 1912, paragraph 23, page 6, lines 15-19, reads:

"Coal-tar products known as dead and creosote oil, soluble and sulfonated dead and creosote oil, anthracene and anthracene oil, benzol, naphthol, resorcin, toluol, xylol; all the foregoing not medicinal and not colors or dyes, five per centum ad valorem."

We beg to call your attention to the extended use made of creosote oil in the preservation of ties and timber in railroad construction and maintenance. One of the railroads we represent is now spending more than \$500,000 annually for creosote oil for this purpose, and probably the total expenditure on this account by the railroads will equal ten times or more the amount of this single company's expenditure. In thus treating the timber so used the railroads are protecting the forests of the country, and naturally urge that a tax upon them in aiding this laudable result is not just.

It is therefore hoped that the committee will permit this article to remain where it is now under the present law, to wit, on the free list.

Very respectfully, yours,

BRITTON & GRAY.

PARAGRAPH 536—COAL-TAR PRODUCTS.

BRIEF OF NEW YORK QUININE AND CHEMICAL WORKS,
NEW YORK CITY.

NEW YORK, January 15, 1913.

Hon. O. W. UNDERWOOD,
Chairman Ways and Means Committee,
House of Representatives.

In reply to your notice of tariff hearings for 1913, we recommend that paragraphs 536, coal tar, crude, etc., and 639, aniline oil, of the tariff of 1909, remain unchanged. These two paragraphs cover the crude material for the manufacture of medicinal derivatives of coal tar. These latter are as yet made only in a very small way in this country, being closely controlled by German syndicates, who established themselves strongly in this country under the protection of our patent law. These patents are gradually expiring and there is no doubt but that American manufacturers, if they could once become established in these products, could successfully work in competition; but the German syndicates are ever watchful, and on the first intimation of competition here they dump their goods on this market at prices made with little regard to cost. Naturally, under these conditions, American manufacturers hesitate to erect the costly plants necessary for these products.

Respectfully submitted.

NEW YORK QUININE AND CHEMICAL WORKS (LTD.).

BRIEF OF A. E. FANT, OF THE GULFPORT CREOSOTING CO.,
GULFPORT, MISS.

GULFPORT, MISS., January 9, 1913.

Hon. B. P. HARRISON,
House of Representatives, Washington, D. C.

DEAR SIR: I was out in Texas the other day and happened to hear that the Committee on Ways and Means are considering the advisability of transferring creosote oil, or dead oil of coal tar, from the free list to the list of articles taking a tariff for revenue only, and took the liberty of wiring you as follows:

"Am advised Ways and Means Committee have placed duty on creosote oil and dead oil of coal tar. Please insist that these commodities be transferred from article 23 in Underwood bill to free list, as if duty is added to present cost its use as preservative of timber would be prohibitive. This action would render worthless millions of feet of loblolly pine which we have in south Mississippi that is now being creosoted and used in all kinds of railway and dock construction; also as crossties. Domestic production is only about 30 per cent of consumption, the other 70 per cent being imported from England and Germany."

As the tariff bill now under consideration contemplates levying a tariff for revenue only, we would not attempt to give other reasons why this commodity should remain on the free list.

This question of tariff on creosote oil was considered by the Ways and Means Committee who framed the Payne-Aldrich bill in 1909, and the manager of this company submitted a brief at that time, from which we beg to quote as follows:

"As a means of revenue the imposition of a tariff would be of doubtful value, both because of the fact that the Treasury would immediately repay a part of such tariff from the various departments, such as the Isthmian Canal Commission, the Engineer Corps of the War Department; Bureau of Yards and Docks, Navy Department; Marine Hospital Service of the Treasury Department, all of which are large users of creosoted material. But aside from the fact that a part of the revenue thus gained would be lost, there is the broader question of the conservation of the forests. The accomplishments of wood preservation are in general as follows: (1) It prolongs the life of durable species of woods, (2) it prolongs the life of inferior and cheaper woods, (3) it enables utility of inferior woods, which without preservation would have little or no value, and conserves the better woods, (4) it decreases the annual cut. To be concrete, we may discuss the question of crossties. It has been determined by the Bureau of Forestry that the average life of untreated ties throughout the whole United States is seven years. In the case of treated ties the average life has been found to be, conservatively estimated, 17 years. The total number of ties now in use, 700,000,000; annual replacement if none were treated, 100,000,000. If all were properly treated, annual replacement would be one-seventeenth of 700,000,000, or 41,000,000 of ties, representing an annual saving of thousands of dollars to railroads and timber to posterity of

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59,000,000 ties, or nearly 2,000,000,000 feet b. m. per year. This, at a reasonable estimate of \$8 per M, gives \$16,000,000 yearly saving and assists in the conservation of forests.

"Following the same line of illustration for poles, piles, posts, lumber, timber, mine props, such as can be properly treated, it can be shown that an annual saving of \$49,000,000 can be effected by wood preservation. Is such an industry as this to be jeopardized by the desire for inordinate profit?

"There are now in the United States between 60 and 65 plants for wood preservation, as against 5 a few years ago.

"The importations of creosote oil for the years 1902, 1905, 1906, 1907, and 1908 were as follows: 1902, 3,711,563 gallons; 1905, 7,750,531 gallons; 1906, 13,235,007 gallons; 1907, 22,462,819 gallons; 1908, 22,043,165 gallons, an increase in six years of over 600 per cent.

"The railroads have expended, and are expending, large amounts of money in preparing for wood preservation and in furthering the science of wood preservation, and, rather than discourage their efforts, it would seem much better to devise a means of cheapening creosote oil, so that it could become available to people of moderate means. At the present price of creosote oil delivered at the treating plant, the creosote oil alone adds approximately \$9.50 to the cost of each 1,000 feet of lumber. This is sometimes prohibitive to the small consumer, and for that reason creosoted lumber has been popular only with Government departments, corporations, and wealthy individuals. Even at the present price it is often a close question as to whether creosoted lumber is economical after adding the cost of freight, oil, treatment cost, and profit to the cost of the lumber, and any increase in the cost will simply throw customers into the market for untreated material, which brings us back again to preservation.

"The timber-treating business is in its infancy. It is decidedly on the increase now, and the factor which retards its growth even now is the fact that no man can afford to build a plant until he knows where the creosote oil is to come from. The buyers can take all that is produced, both abroad and in the United States, and there is no such thing as overproduction. It would seem to be folly to check a growing industry by a revenue tariff, pay back part of the revenue, and deplete the forests years before they should be depleted."

We might state further that we have millions of loblolly and short-leaf pine which, after being creosoted, is used very extensively and satisfactorily for crossties, and in large dimensions is used in all kinds of construction, none of which would be considered without first being creosoted, owing to the inferior grade of the wood. It can be readily seen that the use of these inferior woods, creosoted, can conserve the long leaf and better species of wood for other purposes, and the long life which the creosoting adds to the inferior woods conserves a large interest of our forest to posterity.

Creosote oil is a by-product obtained from a distillation of coal tar; coal tar is secured from retort coke ovens, and from the fact that it is a by-product it is very difficult, if not absolutely impracticable, to perceptibly increase the production of it.

During the year of 1911 there was used in this country approximately 75,000,000 gallons of creosote oil, while the domestic production was only a little more than 20,000,000 gallons, the remaining quantity being imported from England and Germany.

In view of the above, we submit that it is our opinion that even a tariff for revenue only would be a very severe blow to the wood-preserving industry, which is one of the greatest conservers of our timber resources.

In view of the above facts, we request that you use every effort to have creosote oil, or dead oil of coal tar, retained on the free list, if you can consistently do so.

With kindest personal regards, and wishing you a happy and prosperous New Year, we beg to remain,

Yours, very truly,

A. E. FANT, *General Manager.*

BRIEF OF BURDETT, THOMPSON & LAW.

WASHINGTON, D. C., *January 10, 1913.*

HON. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means, House of Representatives.

DEAR SIR: On behalf of the St. Helens Creosoting Co., of Portland, Oreg., we have the honor to suggest that the coal-tar product known commercially as "dead or creosote oil," which is extensively used in this country solely as a wood and timber preservative, and which has never heretofore and is not now dutiable, be continued

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on the free list in any scheme of tariff revision which your committee may recommend to the next Congress.

We make this suggestion at this time in view of the fact that by section 23 of the bill (H. R. 20182) of the second session of the Sixty-second Congress to revise the chemical schedule, which passed the House of Representatives on February 21, 1912, a duty of 5 per cent ad valorem was imposed upon such imported product, and it is assumed that, perhaps, in the bill which is now in course of preparation by your committee for a revision of the tariff, as respects that schedule, to be introduced and considered in the next Congress, a like provision may be incorporated therein, unless upon further consideration of the conditions obtaining in this industry and other industries dependent thereon your committee may see the wisdom of continuing this article of commerce on the free list.

The company which we represent is one of a large number of like companies engaged in treating timber for various purposes with this creosote oil, as a preservative, to the end that the life of such timber may be greatly prolonged, with the result of thereby limiting the drain upon our fast-diminishing forests. Our company is a new one with a capital stock of \$250,000, about one-half of which represents the value of the plant and the remainder represents the dead or creosote oil imported from time to time from Germany and England.

The fact is well known, and was recognized by your committee in its report of February 16, 1912 (H. Rept. No. 326, 62d Cong., 2d sess.), on said bill H. R. No. 20182, that the domestic product is wholly insufficient to meet the demands of the timber-preserving industry.

In that report (p. 200) you say:

"The principal countries producing primary coal-tar products are England and Germany, the former largely for export. Other European countries, as France, Belgium, Austria, Switzerland, and Holland, likewise distill considerable quantities of coal tar, exporting mostly to Germany. The United States production is very small, the census of 1905 giving coal-tar distillery products valued at \$340,641, and conditions since then could not have changed much since in 1910 the imports for consumption of dead oil (creosote oil) alone, which is obtained in the course of coal-tar distillation, were 36,720,000 gallons, approximately 165,000 tons, valued at \$2,168,239."

The reasons for the small production in the United States of dead or creosote oil are thus stated by Mr. Kendrick of the Atchison Railway Co. in the *Railway Age Gazette* of March 16, 1910 (p. 15):

"The production and composition of domestic creosote are regulated to a large extent by the demand for pitch, which is the primary product for which coal tar is distilled. Creosote is a by-product of insufficient value in itself to pay the cost of manufacture. The pitch takes out a large proportion of the heavier constituents of the tar and leaves a proportionately increased amount of light oils.

"In Europe the conditions are quite the reverse. There is little demand for pitch, but a large demand for the lighter constituents of the tar, which are used in the manufacture of the aniline dyes. Hence the lighter constituents are removed and the heavier left in the creosote. In the United States these heavier constituents are considered the most valuable components of the preservative, and consequently at the same price the foreign oils are preferred."

In Circular 206, issued July 18, 1912, by the Forestry Bureau, entitled "Commercial Creosotes with Special Reference to Protection of Wood from Decay," by Carlile P. Winslow, pages 32-33, it is said:

"In 1903 and 1904 the domestic production (of creosote oil) exceeded the imports, but since that time, although the annual consumption of domestic creosote has practically quadrupled, the imports have rapidly outstripped the domestic production, and in 1910 exceeded it by almost 150 per cent.

TABLE 4.—Consumption of creosotes.

Year.	Domestic.	Imported.	Total.
	<i>Gallons.</i>	<i>Gallons.</i>	<i>Gallons.</i>
1903.....	4,000,000	3,711,565	7,711,565
1904.....	4,850,000	3,783,472	8,633,472
1905.....	5,800,000	7,750,531	13,550,531
1908.....	17,360,000	38,640,000	55,000,000
1909.....	13,862,171	37,569,041	51,431,212
1910.....	18,184,355	45,081,916	63,266,271

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"It is not difficult to find the reason for this condition. In Europe the refinement of coal tar is conducted largely for the production of coal dyes, and this does not interfere with the production of a good grade of creosote. On the other hand, in the United States, where the prime object is the production of pitch, the only creosote produced is that which will not interfere with the character or amount of the pitch. Furthermore, by-product retorts are more extensively used throughout Europe than in this country, where large quantities of coal are coked in the beehive ovens with a loss of the possible by-products."

In Circular 186, issued by the Forestry Service on August 2, 1911, entitled "Consumption of Wood Preservatives and Quantity of Wood Treated in the United States in 1910," the same fact is stated in the following language:

"Since timber treating began on a commercial scale in the United States the domestic supply of creosote has never been equal to the needs of the industry. With the rapid development of wood preservation in recent years the insufficiency of the home production has become more marked.

* * * * *

"Nearly three-fourths of the imported creosote came from England and Germany; some was obtained from other European countries and some from Nova Scotia. The domestic creosote was obtained chiefly in New York, Philadelphia, Chicago, and other large cities.

"Were all the tar produced which the coal annually coked in the beehive and by-product ovens in the United States is capable of yielding it would distill considerably more creosote than is now used in preserving wood in this country. Unfortunately, American operators do not even get the fullest use of the limited quantity of coal tar made in this country, for it does not pay the operators to distill coal tar for creosote alone; so, unless they can find a market for the associated products it is not separated. Germany has gone far ahead of the United States in the development of coal-tar products, and European exports of creosote to this country are steadily increasing."

Railroad ties constitute about two-thirds of the timber thus treated in the United States. Next to crossties, the most important class of timbers is piling, including dock timbers. In addition to the foregoing, timber thus treated is used in the construction of steamboats and barges on the Mississippi River and also in car construction.

It was estimated by the Forest Bureau in 1910 (Forest Products, No. 8) that the number of crossties then in use or held for renewals on all classes of railroads in the United States was probably not less than 1,000,000,000, 148,231,000 being used that year, 6 per cent for electric roads, and 94 per cent for steam roads. Of these, 15 per cent were for new tracks, and the balance for renewals. With the large increase in electric railway mileage since that date and also a considerable increase in the steam railroad mileage, doubtless the number of ties now in use is much greater.

In addition to the foregoing, much timber is now being treated with creosote oil, as a preservative, for other purposes, including telegraph and trolley poles, paving blocks, mining props, cross arms, and many other classes of lumber for various purposes. The following table, taken from Circular 186 of the Forestry Bureau, supra, gives the amount of wood material treated with creosote in the United States for the years 1907 to 1910, inclusive:

Wood material treated with creosote oil in the United States, 1907-1910.

	Crossties.	Piling.	Poles.	Paving blocks.	Construction timbers.	Cross arms.	Lumber and miscellaneous.	Totals of each treatment by years.
	<i>Cubic feet.</i>	<i>Cubic feet.</i>	<i>Cubic feet.</i>	<i>Cubic feet.</i>	<i>Cubic feet.</i>	<i>Cubic feet.</i>	<i>Cubic feet.</i>	<i>Cubic feet.</i>
1907.....	17,252,622	4,423,611	.....	2,874,560	1,687,450	238,742	4,561,327	31,038,312
1908.....	28,861,260	6,059,919	.....	1,260,020	2,657,398	480,640	6,065,717	45,384,954
1909.....	29,830,080	4,421,726	659,664	2,994,290	4,902,311	41,764	417,787	43,267,622
1910.....	44,525,529	5,219,254	265,597	4,692,453	7,801,272	88,069	2,682,713	65,274,887
	120,469,491	20,124,510	925,261	11,821,323	17,048,491	849,215	13,727,544	184,965,775

In the report of the National Conservation Commission (vol. 2, S. Doc. No. 676, 60th Cong., 2d sess.), page 661, it is estimated that the life of timber used for various purposes is increased by proper preservative treatment in nearly all cases at least double,

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and in some instances and with some kinds of timber, the life thereof is trebled, quadrupled, and even sextupled. Thus, the life of mine props by proper treatment is extended from 3 to 13 years; shingles from 18 to 32 years; crossties, from 7 to 17 years; poles, from 13 to 23 years; posts, from 8 to 22 years; piles, from 3½ to 21½ years; lumber for ordinary building purposes, from 8 to 20 years. The prolongation of the life of some of the softer woods is even more marked, while the uses to which that class of woods may be put after proper treatment have greatly increased.

In the volume issued May 18, 1911, by the Bureau of the Census, entitled "Forest Products of the United States, 1909," page 75, under the head of "Preservation," it is said:

"Many species of timber unfitted for use as ties because they lack decay-resisting qualities or immunity to insect attacks are made available for the purpose by the use of a preservative treatment. Even in the case of wood that is naturally more or less durable, such treatment is often economical, the added life in service more than paying for the increase in the original cost. Of the 78 species of timber which the different specifications of the steam railroads of the United States permit to be used as crossties, over one-half are acceptable for such use only after the application of a preservative. Among the woods most commonly treated are pine, red or black oak, Douglas fir, hemlock, gum, spruce, and beech.

"The remarkable increase in the use of western pine, gum, spruce, and beech crossties in the reported purchase of ties in 1909 is doubtless due to the use of wood preservatives."

It is a well-known fact that the quantity of available timber in this country for building, railway, and other purposes is diminishing very rapidly from year to year. Even for crosstie purposes alone large areas of forests are required every year. Mr. Ripley, president of the Atchison Railway Co., in a letter to the Secretary of the Treasury dated October 25, 1910 (hearings before the Committee on Expenditures in the Treasury Department, May 25, 1911, p. 11), estimated that his company uses 4,000,000 ties annually, or 160,000,000 feet, board measure, of timber, and that the life of a tie untreated is about 7 years, while when properly treated it would last 14 years. Continuing, he said:

"Figuring an average of 6,000 feet to the acre, we require, say, 26,000 acres of timberland to be cut over for our supply of ties alone. If we can reduce this by one-half, we will be calling on the forests for no more than 13,000 acres, and I think you will agree with me that from a conservation standpoint alone all possible consideration should be given to the railroads in connection with this preservation."

In bulletin 118 of the Forestry Bureau, issued November 9, 1912, entitled "Prolonging the Life of Crossties," page 1, it is said:

"In 1909 the steam and electric railroads of the United States purchased 123,751,000 wooden crossties. * * * Of these ties, 16,437,000, or about 13 per cent, were purchased for new construction; the remainder, 107,314,000, were used for renewals. * * * To produce the ties used for renewals it was necessary to cut about 710,000 acres of timberland, averaging 5,000 board feet, or 150 ties per acre. The amount of wood so cut is equivalent, under present conditions, to the annual growth on about 55,000,000 acres of forest.

"Crossties are particularly liable to decay, since they are used under conditions which are favorable to the growth of wood-destroying fungi. Consequently, the railroads have always taken a leading part in timber preservation in the United States. Fifteen railroads report the operation of timber-treating plants; many also have ties and other materials treated by commercial plants."

In (Circular 186 of the Forestry Service, supra, page 43, it is said:

"The perusal of the individual reports for 1910 shows also a tendency toward the treatment of certain classes of material which have not heretofore been treated to any great extent. For example, the railroads report the treatment of large amounts of tie plugs, pole brackets, fence posts, pole steps, tunnel wedges, and planks. Other commercial concerns also report a treatment of much material which goes into conduit and sewer pipe, barge timbers, and lumber for use in exposed places. The treatment of mine timbers also shows a decided increase."

The deterioration of timber by preventable decay causes a heavy demand upon the timber resources of the country. By the adoption of devices to retard wear and methods to prevent decay the present trackage of railroads could be maintained with approximately one-half of the quantity of wood annually used for that purpose. To employ methods which increase the average length of time that ties may remain in service without decay is equivalent to increasing the supply of timber to that extent.

In the report of the National Conservation Commission, supra, pages 660-661, it is said:

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"It is well known that the quality of timber is deteriorating each year, so much so, in many respects, that it has caused a complete revision of the specifications for grading it. This is due mostly to the exhaustion of the better grades, which has forced the utilization of the poorer qualities. Thus, where specifications once rigidly insisted upon first-quality white oak for ties, or heart longleaf pine for dimension stuff, they are now given a very liberal interpretation, and species other than white oak are accepted with no difference in price, or considerable amounts of sapwood are allowed on 'all-heart' sticks.

"This deterioration in quality naturally results in a decreased length of life, which, in turn, compels a larger annual cut of timber.

"HOW WOOD PRESERVATION WOULD LESSEN THE DRAIN ON THE FORESTS.

"That the drain on the forests of the country would be materially reduced by a proper preservative treatment of all structural timbers can not be doubted. It is very evident that by prolonging the life of timber a given number of years the amount cut for replacements would be correspondingly reduced. It is seen that if all ties, poles, posts, piling, mine props, shingles, and structural lumber adapted to treatment were given a proper treatment an annual saving of about 6,000,000,000 feet b. m. would ensue.

"It is a well-established fact that a proper preservative treatment will prolong the life of the decay-resisting species as well as that of an inferior grade. By applying this treatment, it is evident that a reduction in the annual cut for replacements will follow, but since the increase over the natural life is larger with inferior grades better financial results will be obtained by their use. The different species of wood, such as cedar, cypress, white oak, etc., which are naturally resistant to decay, have in former years been used to a very great extent. In consequence of this quality the supply of these species is very rapidly diminishing, and the consumers are of necessity turning their attention to other species formerly largely disregarded on account of their inability to resist decay. The increasing demand for loblolly pine in the South and the lodgepole pine and Engelmann spruce in the West are examples. If these species are used in an untreated condition, they will decay far more rapidly than the timber formerly employed, and a consequent increased annual cut will ensue. Hence it is essential that they be given a preservative treatment.

"To sum up, wood preservation not only prolongs the life of durable timbers, thus decreasing their annual consumption, but also permits the substitution of inferior species, whose use considerably reduces the drain upon the more valuable kinds."

On page 665 the following statement is made:

"The financial saving that would result each year in the United States, were a uniform policy adopted, * * * would amount to about \$72,000,000. It should be remembered that this includes the value of the labor as well as that of the timber itself, and thus represents the amount of money that could be turned each year into other channels."

In conclusion, the report says:

"Wood preservation began on a commercial scale in the United States in 1848. There are at the present time about 60 plants in operation, with a total output of approximately 1,250,000,000 feet b. m. Most of these plants are located in the South, East, and Central West, but the tendency will be to extend westward as the supply of timber gradually decreases.

"The preservation of cut timber reduces its destruction by decay, fire, insects, marine borers, and mechanical abrasion. These factors destroy annually about 9,700,000,000 feet b. m. of cut timber in the United States. Decay is by far the most destructive agency; its retardation, therefore, is of prime importance.

"On account of the rapid depletion of standing timber, grades of poor quality are now being sold in the market. This has resulted in more timber being cut each year to do the same work that a smaller amount of the better grades did a few years ago.

"Wood preservation, then, accomplishes three great economic objects: (1) It prolongs the life of the durable species in use; (2) it prolongs the life of the inferior and cheaper woods; and (3) it permits the utilization of inferior woods which without preservative treatment would have little or no value.

"Quite frequently inferior woods are rapid and prolific growers, and sprout up on cut or burned-over areas in such numbers and with such persistence that the slower growing and the naturally more valuable kinds are hopelessly outstripped. Such restocked land has heretofore represented almost a total economic loss, because of the little value of the new crop. Wood preservation has changed this aspect. It has

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allowed these cheap woods to be utilized, and by so doing has decreased the call for skilled labor necessary to properly manage forests and increased the revenue that can be derived therefrom.

"Other things being equal, the increased life afforded by proper preservative treatment varies directly with the use to which the treated timber is put. Estimates on the increased life of various kinds and forms of timber are approximately as follows: Ties, 10 years; poles, 10½ years; posts, 14 years; piles, 18 years; mine props, 10 years; shingles, 14 years; lumber, 12 years.

"The increased length of life as a result of preservative treatment decreases the annual cut of timber in direct proportion to the increase secured. Table 2 shows that the total estimated saving would amount each year to approximately 6,000,000,000 feet b. m., or about 12 per cent of the total lumber cut. The saving of our timber resources, therefore, is strikingly apparent.

"But, still further, this saving in material wealth can be brought about by a corresponding financial saving in the cost of maintenance, thereby permitting current expenditures to be placed in other channels. The total estimated saving that would accrue as a result of a uniform policy of wood preservation approximates \$72,000,000 a year. This estimate includes timber set in position; hence the labor cost of placement is included. Thus it is not only possible to reduce the amount of lumber cut 12 per cent, but to do it at an annual saving of \$72,000,000."

In a letter dated March 19, 1910, addressed to the President by Ernest F. Hartmann, president of the Carbolineum Preserving Co., of New York (hearings before the Committee on Expenditures in the Treasury Department, May 24, 1911, p. 6), the following statement is made:

"It is realized that it would be unwise to place a duty on this material, as its wider use will tend to increase our national wealth by conserving our remaining timber supplies.

"The specifications for a suitable grade of creosote oil adopted by the American Railway Engineering and Maintenance of Way Association are of such standard that American creosote oil will not conform thereto, the result being that the imported oil must be relied upon to supply our railroads with material with which to impregnate their timber."

One of the greatest questions before this country to-day is the matter of prolonging our supply of timber. The business in which our company is engaged is thus cooperating with the Forestry Department in giving greater life to the enormous volume of forest products employed in railway construction and maintenance and in other lines of industry in which lumber is used, and is thereby rendering magnificent aid in decreasing the rate of depletion of our diminishing forests.

In protesting against the levying of a duty upon these imported creosote oils we wish to say that its application would be very detrimental to the wood-preserving industry of the country, which industry is rendering greater aid to the forest-preserve policy of all branches of this Government, to the end that the life of our forests may be prolonged, than all efforts by others in every other industry combined.

In view of the known necessity of conserving our timber supply, this imported creosote oil, which is a very superior article, should by all means be classified under the free list in order that it may be used for the preservation of timber, thus conserving our timber supply by insuring a greater life for that which is used.

The production of creosote oil in this country is limited, and we are compelled to use the foreign oil in order to meet the present requirement for timber treatment. The business, however, will not stand a greater charge for the oil, and if a duty is imposed the preservation of timber as to-day practiced will be decreased to a very great extent.

That the cheapening of this preservative oil will assist in diminishing the annual consumption of all grades of timber there is no doubt.

In conclusion, we beg to invite your attention to a letter of Mr. E. A. Sterling, president of the American Wood Preservers' Association, dated April 16, 1912, addressed to Hon. Boies Penrose (hearings and statements before the Committee on Finance, United States Senate, 62d Cong., 2d sess., on the bill H. R. 20182, p. 106), hereinbelow set out in full, with the views and reasoning of which we are in full accord.

That letter is as follows:

"HON. BOIES PENROSE, *Washington, D. C.*

"DEAR SIR: We have been informed that the Underwood chemical schedule now before the Senate contains a clause imposing a duty of 5 per cent on creosote oil imported for purposes of wood preservation. On behalf of the wood-preserving

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industry, as represented by the American Wood Preservers' Association, I should like to call your attention to the harmful and wide-reaching effect which such a duty would have on an important industry and on the conservation of our forest resources.

"Briefly stated, the following valid objections to the proposed duty on creosote oil can be made without fear of contradiction:

"1. The wood-preserving industry, which has grown from 11 operating plants in 1900 to 101 in 1911, would suffer a severe setback.

"2. The increasing scarcity and high price of timber make preservative treatment imperative in order to keep down the cost of operation of railroads and many other industrial concerns.

"3. The preservative treatment of crossties and timber against decay is the most active influence in reducing the drain upon our forests and thereby conserving our forest resources.

"4. The preservative treatment of timber permits the use of many inferior woods which without treatment would be useless, thereby making an asset out of large quantities of material which otherwise would be unproductive.

"5. The amount of domestic creosote oil produced is not sufficient to meet the demands, the amount imported being 37,569,000 gallons, or 73 per cent of the total consumption, in 1909, and 45,081,000 gallons, or 71 per cent, in 1910. There is a ready market for all domestic creosote at remunerative prices, and it is not necessary to impose a duty on the foreign oil in order to protect American manufacturers.

"6. The foreign creosote market is firm and the outlook is that prices will increase rather than decline; and if these increasing prices are further enhanced by a duty, developments in wood preservation will be retarded.

"7. The Government and various States are making every effort to conserve our timber resources, and since the preservative treatment of timber is an essential factor in making our forests more nearly meet the future needs it would be most unfortunate for the Government to impose a duty which in a way would counteract its own efforts along the line of forest conservation.

"We will greatly appreciate your cooperation and assistance in the above matter and will be very glad to be advised as to what further steps we could take in retaining coal-tar creosote on the free list.

"Very truly, yours,

"E. A. STERLING, *President.*"

The American Wood Preservers' Association are necessarily concerned in this subject purely from an altruistic standpoint, in the interests of all the people. No mercenary motives can be imputed to them; and their views, therefore, are entitled to, and we believe will receive at your hands, the very highest consideration.

For the foregoing reasons, we ask that in any bill amending the chemical schedule which may be introduced by you and reported by your committee in the ensuing Congress the commercial article known as dead or creosote oil be placed on the free list, where it now is and has always been heretofore.

Very respectfully,

BURDETT, THOMPSON & LAW,
Attorneys for St. Helens Creosoting Co.

JANUARY 9, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee,

United States House of Representatives, Washington, D. C.

SIR: Our attention has been called to the fact that coal-tar creosote or dead oil of tar is listed under article 23 in the Underwood bill, now under consideration by the Ways and Means Committee. In this connection and on behalf of the American Wood Preservers' Association, which represents most of the creosote-consuming interests in this country, I should like to respectfully call your attention to a few fundamental points which would seem to fully justify a retention of coal-tar creosote on the free list.

As a first consideration the United States is producing only about 30 per cent of the creosote used in the wood-preserving industry, the remainder being imported from Great Britain and Germany. The total consumption has been increasing quite rapidly, or from 56,000,000 gallons in 1908 to 73,000,000 gallons in 1911; while the domestic output has maintained practically a constant percentage to the total amount used, being 31 per cent in 1908 and 30 per cent in 1911.

The selling price and ocean freight rates on foreign coal-tar creosote have increased, so that the consumers of creosote in the timber States who are forced to buy at least part of their oil abroad, because the domestic supply is not sufficient, now have to pay

PARAGRAPH 536—COAL-TAR PRODUCTS.

a delivered price of about 25 per cent higher than a few years ago. There is an actual shortage of creosote in the European market, so that prices will likely go still higher, and if in addition a duty is imposed it will not only work a hardship on the wood-preserving industry, but actually result in the discontinuation of much wood-preserving work.

As a further consideration, it is clearly recognized that preservative treatment of timber is a strong factor in the conservation of our forests. Creosoted crossties, piling, trestle timbers, and other material will last from two to four times longer than untreated material and thereby to exactly that extent reduce the drain on our diminishing forest resources. Since the Government is expending millions of dollars in purchasing and conserving forest lands, it hardly seems consistent to put a premium, in the form of an import duty, on the preservative material which figures very largely in the work of timber conservation.

It is perhaps unnecessary to explain that the coal-tar creosote in which wood preservers are interested is not a manufactured product, but is a by-product of a by-product (coal tar) and is produced only when tar is distilled to recover other products.

I understand that the hearings on the chemical schedule in which creosote is included have already been held, so I should be glad to be advised of the proper procedure in order to have the matter fully explained and considered by the Ways and Means Committee.

Yours, respectfully,

E. A. S., *President.*

BRIEF OF THE DODGE & OLCOTT CO., NEW YORK, N. Y.

NEW YORK, *January 2, 1913.*

HON. O. W. UNDERWOOD,

*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

SIR: We respectfully request and urge the consideration by your committee of the status under the chemical schedule of the tariff on the material known as nitrobenzol or oil of mirbane, which we understand it is proposed to assess at 10 per cent ad valorem.

Nitrobenzol is an extremely crude and rough product which is used almost exclusively for its coarse odor suggesting bitter almond. This odor is found useful to cover or disguise the obnoxious odors which are ordinarily inseparable from cheap soaps and disinfecting compounds and the use of the nitrobenzol is chiefly in these inexpensive laundry soaps and in disinfectants. The article is a very cheap one, the importation value being only about 5 cents per pound, so that the amount of revenue to be obtained from it will be trifling. On the other hand, the products in which it is used, namely, the cheap soaps and common disinfectants, are sold at such low prices and narrow margins of profit that such an increase in the cost of any of their ingredients as would be involved in this duty would be a hardship which these industries, already sorely pressed, could not support and which they would necessarily have to shoulder off upon a class of consumers who are probably the least able of any in the country to bear it.

We sincerely trust that your committee will be able to see its way clear to continue the nitrobenzol on the free list where it has always been.

Respectfully,

DODGE & OLCOTT CO.,
By CHRISTIAN BRILSTEIN, *Secretary.*

BRIEF OF READ HOLLIDAY & SONS (LTD).

With reference to the proposed revision of the present tariff, we would respectfully request that the following articles which are now on the free list be allowed to remain on said list: Paragraph 639, aniline oil; paragraph 491, aniline salts; paragraph 536, all products now covered by this paragraph, including toluidine, xylydine, binitro, benzole, binitro toluole, nitrobenzole, nitrotoluole, dimethylaniline.

These products are used extensively by the textile mills throughout the United States, who have to depend upon foreign manufacturers for their supplies, as also the quality of the goods, and therefore, in the event of any duty being imposed, it would mean an advance in price on all products into which these goods enter.

A tariff will increase the cost of the goods to the manufacturers and converters; this very naturally means an advance to the consumer. This is an injustice to the consumer, because any duty falls on the poorer class, least able to support it, as example:

PARAGRAPH 536—COAL-TAR PRODUCTS.

Aniline oil and salts used principally on cotton yarn, cotton cloth, and cotton hosiery, "cheap goods" bought by the poorer classes. Silk, wool, union goods, and such grades are dyed with more expensive material.

Nitrobenzole or mirbane oil.—This is a crude product which is used almost exclusively for its coarse odor, suggesting bitter almond. This odor is found useful to cover or disguise the obnoxious odors which are ordinarily inseparable from cheap soaps and disinfecting compounds, and the use of this article is chiefly in these inexpensive laundry soaps and disinfectants.

The fact of manufacturers and converters having to increase their prices for goods treated with these chemicals brings their selling prices up to a possible standard of European manufacture of these cheap goods, therefore enabling them to import, so any duty assessed is very liable to be far reaching in effect, and it is reasonable to suppose will hit at manufacturing which it is not intended to reach.

All the above articles are sold at low prices, so that the amount of revenue to be obtained from any duty assessed would be very trifling.

Respectfully submitted.

READ HOLLIDAY & SONS (LTD.),
H. J. McGRANE, *Secretary*.

BRIEF OF HERMANN VON SCHRENK, ST. LOUIS, MO.

ST. LOUIS, *February 25, 1913.*

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee,
Washington, D. C.

DEAR SIR: It is my understanding that a suggestion has been made to your honorable body that a duty be placed on coal-tar creosote. In view of the fact that the study of increasing the length of service of wood in its various forms has been my specialty for 20 years, I have very considerable interest in this matter and venture to call your attention to some views with respect to such a proposed duty.

I have been engaged for a good many years in prosecuting investigations on the preservative treatment of timber. For 10 years I was in charge of such work for the United States Department of Agriculture as Chief of Division of Forest Products and Forest Service, and in charge of Investigation of Diseases of Trees and Structural Timber for the Plant Industry, United States Department of Agriculture, and was practically the first one to urge upon the timber consumers of this country the chemical preservation of ties, telephone poles, building lumber, and other forms of wooden material.

With the decreasing supply of timber, I have long felt, and feel so more strongly to-day than ever, that unless the people of the United States become thoroughly aware of the rapidly decreasing supply and take vigorous steps to get the best possible service out of the wood, there would be before long an appreciation in price, due to the decreasing supply, just as this has taken place in most of the European countries.

One of the best methods for making the supply last is to get the maximum service out of wood, and in view of the fact that one of the chief reasons for increased consumption is due to the rapidity with which many classes of wood decay, there is no method which will conserve as rapidly as will the artificial preservation of wood. At first the chemical preservation was confined largely to railway companies, telegraph companies, and the other large users of wood. During recent years, however, the chemical preservation of wood has rapidly spread among our farmers and the smaller users.

As chairman of the Forest Commission of Missouri for several years, I have been endeavoring to introduce the use of creosoted lumber, fence posts, etc., among the farmers, and endeavoring to show them that by preserving their fence posts and their farm timbers with creosote, it would pay them to raise young trees. Rapidly growing trees, that is, the kind which it would pay to grow, usually make poor lumber, because such lumber decays so rapidly. The treatment of such lumber with creosote, therefore, I hold as one of the greatest incentives to our farmers and others toward encouraging the growth of trees, that is, to practice practical forestry. The work which I started in the Forest Service and in the Bureau of Plant Industry has been vigorously advanced by my successors, and similar educational agitation urging the adoption of creosoting lumber wherever possible, is being carried on in many of our universities and agricultural experiment stations. I have endeavored to introduce among the small users similar widespread use of creosoted timber to that which is found in England, Germany, and other countries whose timber supply has grown very small. In

PARAGRAPH 536—COAL-TAR PRODUCTS.

other words, I consider the use of creosote in its application to the preservation of wood as the most vital factor in promulgating forestry among the people at large, and as one of the most important economic steps in advance which could possibly be taken in regard to the utilization of wood.

I should regret the placing of any obstacle, such as an import duty, on creosote as almost calamitous. The increasing demand has already forced the price to points where it is expensive enough, and I feel perfectly sure that if any import duty were placed on coal-tar creosote, it would make its application on a wider scale, which I referred to, practically impossible. Personally, I should feel that I could no longer recommend that farmers' institutes and other similar meetings, with small creosoting plants, be built in different communities. I should also fear that many of the already established plants would probably have to be abandoned. I sincerely trust, therefore, that you will give this matter your very earnest consideration, and will urge as strongly as I can that all possible steps be taken to encourage the importation of creosote, so as to make it more readily available, which would mean, of course, that coal-tar creosote be admitted duty-free, as at present.

Very respectfully, yours,

HERMANN VON SCHRENK.

BRIEF OF W. K. STALCUP, ALAMOGORDO, N. MEX.

ALAMOGORDO, N. MEX., *February 15, 1913.*

HON. H. B. FERGUSON, M. C.,
Washington, D. C.

DEAR SIR: A citizen of our town has just handed me a copy of a resolution passed by the American Wood Preservers' Association, at Baltimore, January 21, 22, and 23, 1913, and no doubt you are in possession of or have seen a copy of the same.

It appears that there is a resolution pending before Congress providing for levying an import duty on dead oil of coal tar, otherwise known as creosote oil.

I am convinced that the levying of an import duty on the above product would increase the expense of treating railroad ties 2 cents or more per tie. If I am correct then the increased cost must ultimately fall upon the backs of the common people, because the increased cost of treated ties would be used by the railroad companies in their arguments before the corporation commission in fixing the general freight rates over the road, and this increased cost of ties would most likely receive favorable consideration by the commission. The natural consequences arising therefrom would be a comparatively increased freight rate.

It appears from the resolution above referred to that we are importers of the above product in large quantities. For example, in 1912, 60,000,000 gallons were used of the imported article, all of which was used in treating timber, such as railroad ties, bridge and construction timbers, telegraph and telephone poles, paving blocks, etc., amounting in the total to about 750,000,000 board feet of timber. If the amount imported in the future be equal to or greater than the above amount per annum, which in all probability it will, then the farmer, the merchant, the laborer, and all who make the masses must "pay the freight."

I would also call your attention to the fact that we have here in Alamogordo a tie-treating plant in operation, which has been in operation for years, which is one of our permanent assets, and a great benefit to our town and community and gives employment to a great many men, and to place this import duty on this article, which is so extensively used in this industry, would have a tendency to increase instead of lower freight rates, and could not under any circumstances have a tendency to raise the wages of the employees, nor result in any possible benefit to the masses of people.

I believe you also have a tie-treating plant in Albuquerque, which, of course, would be affected in the same manner, if my position is correct.

I would call your attention to the fact that, in my opinion, the only ones that would be benefited by the passage of a bill levying an import duty on creosote would be such concerns as the Barrett Manufacturing Co. and its allied interests. To make a long story short, it looks to me like the Standard Oil Co., its subsidiaries and "relatives," would be the only real beneficiaries of such a law, should it be passed.

Very truly, yours,

W. K. STALCUP.

PARAGRAPH 536—COAL-TAR PRODUCTS.

BRIEF OF C. LEMBCKE & CO. (INC.), NEW YORK, N. Y.

NEW YORK, January 13, 1913.

The TARIFF REFORM COMMITTEE OF THE REFORM CLUB,
New York City.

DEAR SIR: Referring to the issue of The Journal of Commerce, January 11, 1913, in which you request arguments in favor of increasing the free list for presentation to the Ways and Means Committee, we take the liberty of placing before you the following facts relative to a proposed duty on the importations of creosote oil or dead oil of coal tar from Europe to the United States:

Dead oil of coal tar, or creosote oil, is used for the preservation of timber, and while heretofore free of duty it is now proposed to levy a duty on this article for the purpose, as we understand, of revenue only. It is a well-known fact that the Forestry Department is bending every effort for the preservation of our natural timber resources, and for this end they strongly advocate the preservation of timber by means of impregnation. Large users of timber, such as railroads and construction companies, not only have been forced to adopt the preservation of timber, as they found it harder and harder to get supplies of ties and bridge timber, but also have found it expedient to adopt preservation on account of the ever-increasing cost of the raw material, caused by the decrease in visible supplies. The natural consequence has been that the art of timber preservation has progressed steadily in this country, and while in the year 1848 there existed only one plant, there were built in the years—

1875.....	1	1901.....	2
1878.....	1	1902.....	5
1881.....	1	1903.....	5
1884.....	1	1904.....	2
1888.....	1	1905.....	6
1889.....	1	1906.....	4
1892.....	1	1907.....	12
1893.....	1	1908.....	11
1894.....	1	1909.....	12
1895.....	1	1910.....	9
1896.....	1	1911.....	6
1897.....	1	1912.....	2
1899.....	2		

This development only clearly shows that the users of timber more and more recognized the necessity of preservation and that a healthy and rapid development took place, all tending toward the preservation of our resources.

The two main preservatives used for this purpose are chloride of zinc and coal-tar creosote. The statistics of the Federal Government show us that while preservation by zinc chloride did not increase the use of creosote oil, it being recognized that it is by far the most efficient preservative, has become more and more adopted. The following table shows that the following number of ties were treated:

	1907	1908	1909	1910	1911
Zinc chloride.....	9,864,765	8,640,230	8,051,054	9,195,861	9,445,961
Creosote.....	5,750,874	9,620,420	9,943,360	14,841,843	16,510,721

These figures go to prove that while the art of timber preservation has constantly been on the increase, dead oil of coal tar has become more and more recognized as being the best preservative to be employed.

In view of the foregoing statements we would respectfully submit that a duty on creosote oil would tend to decrease the use of this preservative, as the present prices at which this article must be held on account of the large demand compared to the supply, are such that an ad valorem duty would of necessity curtail its employment and that such curtailment would counteract all the efforts of the present administration for the preservation of our natural timber resources. We have been given to understand that the sum which the Government pays annually for the work done toward the preservation of our timbers is at least five times as big as would be a possible revenue derived from a duty on creosote oil. It therefore hardly seems consistent to

PARAGRAPH 541—COFFEE.

put a premium, in the form of an import duty, on the preservative material which figures very largely in the work of timber conservation.

The domestic output of creosote oil is only about one-third of the total annual consumption, and as the domestic manufacturer can sell at competitive prices and make a handsome profit, the domestic industry does not need nor does it request protection; therefore, from the standpoint of protection a duty on dead oil of coal tar likewise is not necessary nor recommended.

We would appreciate your efforts in placing this matter before the Committee on Ways and Means in the proper light, and to that end we respectfully place our services at your disposal.

Thanking you for any attention you may give these lines, we remain, dear sirs,

Yours, very truly,

C. LEMBCKE & Co. (Inc.),
G. N. LEMBCKE, *Treasurer.*

PARAGRAPH 537.

Cobalt and cobalt ore.

PARAGRAPH 538.

Cocculus indicus.

PARAGRAPH 539.

Cochineal.

PARAGRAPH 540.

Cocoa, or cacao, crude, and fiber, leaves, and shells of.

PARAGRAPH 541.

Coffee.

COFFEE.

STATEMENT OF HON. LUIS MUÑOZ RIVERA, RESIDENT COMMISSIONER FROM PORTO RICO.

WASHINGTON, *January 20, 1913.*

It is an obvious fact that all products of American industry and agriculture are protected against competition with similar foreign products by the duty imposed upon the latter. The Porto Rican coffee is the only exception made. Porto Rico imported from the United States in 1911 merchandise as follows:

Merchandise brought into Porto Rico from the United States during the fiscal year ending June 30, 1911.

[NOTE.—Ad valorem rates computed on basis of total imports of the United States for the fiscal year 1910. Specific rates used where available.]

Articles.	Unit.	Domestic merchandise from United States.		Rate of duty.	Duties calculated according to rates mentioned.
		Quantity.	Value in dollars.		
Agricultural implements.....			29,975	15 per cent.....	\$4,496
Animals.....			63,087	25 per cent.....	15,772
Breadstuffs:					
Bread and biscuits.....	Pounds.....	4,273,641	282,746	20 per cent.....	56,549
Corn meal.....	Barrels.....	45,455	135,138	\$0.40 per hundredweight.	35,637
Oats.....	Bushels.....	277,761	122,479	\$0.15 per bushel.	41,664
Wheat flour.....	Barrels.....	347,680	1,779,248	25 per cent.....	444,812
Rice.....	Pounds.....	126,901,195	3,866,986	\$0.02 per pound..	2,538,024
All other.....			73,252		24,173
Candles.....	Pounds.....	1,468,987	119,149	20 per cent.....	23,830
Cars, carriages, and parts of.....			1,354,752	25 per cent.....	609,638
Cement.....	Barrels.....	213,460	280,059	\$0.08 per hundredweight.	64,892
Chemicals, drugs, dyes, and medicines.....			471,247	23 per cent.....	108,387
Coal and coke.....	Tons.....	100,897	313,491	\$0.45 per ton.....	45,404
Cocoa and chocolate, prepared.	Pounds.....		24,584	21 per cent.....	5,163

PARAGRAPH 541—COFFEE.

Merchandise brought into Porto Rico from the United States during the fiscal year ending June 30, 1911—Continued.

Articles.	Unit.	Domestic merchandise from United States.		Rate of duty.	Duties calculated according to rates mentioned.
		Quantity.	Value in dollars.		
Cotton, manufactures of:					
Cloths.....	Yards.....	53,688,380	2,919,391	42 per cent.....	\$1,226,144
All other manufactures of.			2,213,302	56 per cent.....	1,239,449
Earthen, stone, and china ware.			135,246	59 per cent.....	79,795
Explosives.....			46,009	45 per cent.....	20,704
Fertilizer.....	Tons.....	10,406	459,981	Free.....	
Fibers, vegetable, and textile grasses:					
Cordage.....	Pounds.....	1,021,927	70,462	41 per cent.....	28,889
Jute bags.....			18,113	33 per cent.....	5,977
All other.....			69,307	36 per cent.....	34,951
Fish:					
Dried, smoked, or cured.	Pounds.....	6,078,761	364,543	16 per cent.....	58,327
All other.....			52,996	19 per cent.....	10,069
Fruits and nuts.....			155,320	40 per cent.....	62,128
Glass and glassware.....			140,481	54 per cent.....	75,860
India rubber, manufactures of.			242,837	33 per cent.....	80,136
Instruments and apparatus, scientific.			186,825	Free.....	
Iron and steel, manufactures of.			4,977,146	33 per cent.....	1,642,458
Leather and manufactures of			1,266,132	32 per cent.....	405,162
Meat and dairy products:					
Meat products—					
Bacon.....	Pounds.....	135,985	18,723	\$0.04 per pound..	5,439
Hams and shoulders	do.....	3,663,620	491,037	do.....	146,545
Pork, pickled.....	do.....	12,430,220	1,359,110	25 per cent.....	239,778
Lard.....	do.....	2,189,732	251,147	\$0.015 per pound.	32,846
Lard compounds.....	do.....	9,041,222	854,916	do.....	135,618
All other meat products.	do.....		206,637	31 per cent.....	64,057
Dairy products—					
Butter.....	do.....	870,522	153,124	\$0.06 per pound..	52,234
Cheese.....	do.....	470,463	78,712	do.....	28,228
Condensed milk.....	do.....	2,078,837	150,726	\$0.02 per pound..	41,577
Musical instruments, and parts of.			55,564	45 per cent.....	25,004
Oils:					
Animal.....	Gallons.....	2,115	1,899	27 per cent.....	513
Mineral.....		3,938,283	474,976	Free.....	
Vegetable.....			118,272	31 per cent.....	36,664
Paints, pigments, and colors.			156,905	do.....	48,641
Paper, manufactures of.....			556,229	29 per cent.....	161,306
Perfumeries, cosmetics, and toilet preparations.			72,324	64 per cent.....	46,287
Seeds.....			4,295	16 per cent.....	687
Silk, manufactures of.....			320,099	53 per cent.....	169,652
Soap:					
Toilet or fancy.....			31,164	50 per cent.....	15,582
All other.....	Pounds.....	11,207,790	502,610	20 per cent.....	100,522
Spirits, wines, and malt liquors:					
Malt liquors—					
In bottles.....	Dozen quarts..	173,367	221,787	\$0.45 per gallon..	234,045
In other coverings.	Gallons.....	4,003	1,923	\$0.23 per gallon..	921
Spirits, distilled—					
Whisky.....	Proof gallons..	12,179	31,743	\$2.60 per gallon..	3,665
All other.....	do.....	10	28	do.....	26
Wines.....	Gallons.....	193,008	69,534	48 per cent.....	33,376
Sugar.....	Pounds.....	11,853,322	600,038	\$1.685 per pound.	199,728
Straw and palm leaf, manufactures of.			70,621	35 per cent.....	24,717
Tobacco, and manufactures of:					
Unmanufactured.....	Pounds.....	2,024,380	349,598	81 per cent.....	283,174
All other manufactures of.	do.....		15,825	84 per cent.....	13,293
Toys.....			67,632	35 per cent.....	23,671

PARAGRAPH 541—COFFEE.

Merchandise brought into Porto Rico from the United States during the fiscal year ending June 30, 1911—Continued.

Articles.	Unit.	Domestic merchandise from United States.		Rate of duty.	Duties calculated according to rates mentioned.
		Quantity.	Value in dollars.		
Vegetables:					
Beans and dried peas...	Bushels.....	185,630	546,129	29 per cent.....	\$158,377
Onions.....	do.....	37,133	30,592	\$0.40 per bushel.....	14,853
Potatoes.....	do.....	188,197	150,608	\$0.25 per bushel.....	47,049
All other, canned.....			32,482	40 per cent.....	12,993
All other, including pickles and sauces.....			16,121	do.....	6,448
Wood, and manufactures of:					
Boards, deals, and planks.....	M feet.....	49,850	996,712	8 per cent.....	79,737
Furniture.....			378,380	35 per cent.....	132,433
All other.....			618,047	11 per cent.....	67,985
Wool, manufactures of.....			223,674	59 per cent.....	131,968
All other articles.....			1,260,031	20 per cent.....	252,006
Total value.....			33,774,263		12,178,135

It will be seen, therefore, that during 1911 Porto Rico afforded the American products a protection amounting to \$12,178,135 on a total value of said products amounting to \$33,774,263. In 1912 imports from the United States into Porto Rico aggregated \$37,424,545, and it may be logically said that the protection given American goods would amount in that year to about \$14,000,000. Notwithstanding this, the Porto Ricans, tributary as they are to national agriculture and industries, are left, in what regards their excellent coffee, to compete in the American markets with competitors of duty-free coffee from all over the world. And on account of low wages in Brazil, Colombia, Venezuela, and the Central American Republics, where most of the coffee imported into the United States comes from, Porto Rico is thus placed at a disadvantage with those and other coffee-producing countries. To that fact is due that after 14 years of American rule the coffee dealers of the island have not as yet succeeded, in spite of all their efforts made, in getting an American market for their product. We have, therefore, that a national product, as national as wheat, oats, and corn, has no way of being introduced into the national markets and suffers the injustice of being deprived of any protection, while all other products of the United States are, without exception, protected by the tariff.

The National Coffee Growers' Association of Porto Rico has asked me to present before the Ways and Means Committee the following facts:

"The Porto Rican coffee, a national product entitled to protection as any other one, is now placed on the same footing with other coffees of the world. This situation, upon the slightest investigation, plainly shows that our product has been left at a disadvantage with others—that which springs from the difference in the value of the money. Owing to this difference we are placed at such disadvantageous condition that it becomes an impossibility for us to compete with other exporters to the American market. Nobody ignores to-day that the silver standard represents a premium to any industry. You will remember how the British and Danish Antilles saw the ruin of their sugar industry about the year 1885, while Porto Rico, thanks to the premium in our favor, represented, first, by the Mexican money, and, afterwards, by our provincial money, managed to live.

"Out of all coffee exporting countries, Costa Rica, Venezuela, and the Dominican Republic are only on equal basis with Porto Rico, they having, as we have, gold for their money standard. The other countries have silver as standard and thus insure their industries a true premium for their products. Hence the unfavorable condition of our coffee in the national markets.

"What could be done to remedy this unfair situation? We believe that the way to do it is by placing coffees from all over the world on an equal footing in the tariff. To this end, allow us to suggest the following: That a careful investigation of the matter be made and that a duty be imposed on coffee so as to compensate for the disadvantage to which we are subjected through the difference in the money.

PARAGRAPH 541—COFFEE.

"If the Democrats are against protectionism because they consider it unjust and oppressive, they should not, in good logic, look with indifference upon our disadvantageous position to compete with others, nor should they fail to receive our considerations with favor, inasmuch as they are denouncing a situation as unjust and oppressive as protectionism, created by the tariff now being revised.

"We do not ask for protection; we ask for justice. To place ourselves above the common level to be obtained in the tariff would be unfair; but it would be much more unjust and inconceivable that our present situation should be left to endure, in view of the fact that our competitors have been placed above the common level and the doors of the national markets, to which we have an unquestionable right, have been in that manner closed to us."

No doubt, should Congress enact a law to impose a duty on foreign coffees, the American consumer would have to pay for his coffee a higher price than at present. But the difference, very small as it would be, would not considerably increase the cost of living, while on the other hand the Federal Treasury would receive an important amount of revenue, amounting to \$10,000,000 a year, if 1 cent duty should be imposed per pound on the one thousand million pounds imported yearly into the United States. If 2, 3, or 5 cents should be exacted on each pound, that amount of revenue would be doubled, tripled, or quintuplicated, respectively. In this manner resources would be had to replace losses caused by reduction of duty upon other schedules of the tariff.

Presently Porto Rico produces 50,000,000 pounds of coffee yearly, and it may be assured that should this product enjoy the benefit of an effective protection the island would soon increase its yield to 200,000,000 pounds. There are extensive mountain lands in the interior of the island most especially adaptable to coffee raising and of not much importance for the cultivation of any other product on account of their topography and climatological conditions prevailing in them. The development of Porto Rico to a great extent depends upon the development of the coffee industry in the island. Our legislature has no power to pass upon laws that might affect the tariff, nor is it endowed with power to make commercial treaties with Cuba or any European country buying our coffee. We are therefore without any means at our reach to protect this important industry of ours. But we look to the Congress of the United States to grant us the means necessary to the development of our agriculture, giving coffee the protection it requires.

BRIEF OF L. E. DARDEN, NEW YORK, N. Y., IN RE COFFEE.

NEW YORK, *January 3, 1912.*

OSCAR W. UNDERWOOD, Esq.,
House of Representatives, Washington, D. C.

DEAR SIR: Being a southerner and a Democrat myself, I take the liberty of calling your attention to the high price of coffee to-day, coming, in my opinion, directly as a result of manipulation and the unfeeling and brutal power of money.

I also think that the public all over this country are so thoroughly aware of conditions and the cause of present values that it will be one of the hardest things the next Republican President will have to explain.

We have a supply equal to almost a year's consumption, with another crop growing, and prices about three times as high as they were a little more than two years ago, and consumption far less than at that time, in consequence, I take it, of the high price. This situation has been called to the attention of the district attorney in New York and should be investigated by Congress, as in my opinion there has never been such a glaring case of buying up the supply to control the price as is at present the condition of the coffee market in this country.

The Brazilian Government has held here for years, under a bonded agreement, large quantities out of trade channels and, supplementing this, interests here took over Government coffee and held it until such a time as the price was satisfactory.

I am also under the impression that those who have received large quantities of coffee on contract recently, and are carrying large supplies, will endeavor to have the tariff agitation revived in Congress in order to frighten consumers into buying. This would be a most diabolical development on top of what has already taken place in this commodity during the past three months, but there are always Congressmen, it seems, who can be used for such purposes.

Such agitation would only result in unloading a lot of coffee upon the consumer at prices totally unwarranted and relieve those who are carrying a heavy burden at present in consequence of their manipulations, yielding enormous profits, and would

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also give the Brazilian Government an opportunity of unloading 1,000,000 bags which they have held in this market for years.

This is a situation which, in my opinion, as a man thoroughly familiar with the coffee trade, being a member of the New York Exchange and on the floor all the time, that should be given the attention of Congress, especially of the Democrats, as I am one myself, for the Republicans have seemed to encourage rather than to discourage manipulations of this kind.

I should be glad to confer with you further or give you any information in my power along this line, and am, with great respect,

Yours, very truly,

L. E. DARDEN.

I herewith inclose you circular covering a number of years, which will give you some idea as to price, fluctuations, and visible supplies at different dates.

COFFEE.

NEW YORK, *December 30, 1911.*

The close of the year 1911 offers to the coffee trade a peculiar and opportune period for reflection on what has been the most remarkable year in the industry for nearly a quarter of a century. The planter, the speculator, the merchant, and the roaster have had to face new and unusual conditions which have precluded the use of the guiding hand of experience and conservativeness, and the market in consequence has been a boiling pot of feverishness and uncertainty, fed by the fuel of mammoth bull manipulation and a bearish determination for values commensurate with known conditions and legitimate merchandising.

That the market has been overworked upward is a conclusion based on all reliable information to hand at the moment; that it will be overworked downward is quite as likely a conclusion, in the light of human frailty.

To those who would avoid the danger of attaching undue importance and ascribing permanent significance to the daily deluge of ticker gossip, this review is especially addressed.

The era of high prices dates back to August, 1910, during which month both options and actuals advanced a full cent a pound; the advance continued with but unimportant reactions until the middle of January, 1911, the net enhancement of values for the five months being about 5 cents a pound—0.1180 cents March option. This was followed by a steady decline during February, March, and April, the active months in futures, showing a decline of 2 to 2½ cents, and actuals, as shown by quotations of Santos 4's, about 1½ cents. Rio 7's reached a lower level, owing to a corresponding advance during the period of higher values, in consequence of the then existing scarcity of this grade.

The market at this time seemed to have settled, and the trade generally looked upon prices as more in keeping with the statistical position, and the prospects for the crop now being marketed; but it was in no way prepared to assimilate the valorization sales of last April without a further reaction, and so, with little regard for the niceties of exactness, the committee in charge announced that the sale had been completed at the price agreed upon, whereas the exact truth of the matter was that to prevent a further decline the committee themselves became the chief purchasers, both in Europe and in the United States.

The secrecy regarding the United States sale, which was a private one, hid but for a very short time the fact that the bankers had been compelled to valorize valorization, and the upward movement starting very soon afterwards, reaching its high point in October (0.1515 cents for December option and 17 cents for spot Santos 4's), is solely accounted for by this manipulation. At this time prices showed an advance of over 8 cents in 15 months, undoubtedly far in excess of a warrantable conclusion based on reliable information in hand up to the time.

No far-seeing eye, no extraordinary meteorological genius, has been able to foresee weather conditions for several months in advance, and by no reasonable deduction could it be assumed that a market which balked at a further advance in last January should turn upward, with but slight changes in its statistical position, and with not a fact worth noting that could be recorded about a crop which had not yet flowered; yet estimates of a reduced yield were not lacking, and later comparisons with like periods in previous years were made to show no flowering at all, making no allowances whatever for a season fully four weeks late; a fact which is not essentially a good argument that the season would be too short, for we are treating of a semitropical climate where extremes are the exception rather than the rule. We therefore attribute the advance from April to October solely to speculation,

PARAGRAPH 541—COFFEE.

We have now to consider if the flowering has justified that advance, even while contending that the advance became possible only through manipulation, and was not a result of conditions that existed at the time. If we determine that it was really a good guess, we must remember that guesses are as apt to be wrong as right, and, if it be part of wisdom, to use them as an infallible rule for our guidance in determining the future of the market.

The season is now sufficiently advanced to permit us to arrive at some approximation of the fructification as indicated by the flowering. We believe we have not been lacking in thoroughness in an investigation of the matter, and have gone further into the subject than to speculate on whether the general appearance of the flowering was either good, bad, or indifferent; we have studied it from points usually not taken into consideration, in reports purporting to be an actual observation of the quality of the flowering itself.

As judged from many reports, it would seem evident that the flowering has not been profuse or even very good, yet there have been successive flowerings from September to December, which covers a longer period than is usual, and there are some indications of even a January flowering.

We quote you the Brazilian Review, October 24, 1911:

"Reports this week from the interior of Rio are to the effect that the flowering has been somewhat more irregular than at first stated to be the case. It apparently, according to these reports, will be hardly as good as last year, but will on the whole be fair.

"The stereotyped news from Sao Paulo is to the effect that there has as yet been no flowering at all, but isolated advices seem to show that there has been a certain amount of blossom, though nothing really good. The next five or six weeks will be the crucial time, and will decide the fate of the coming crop. Some people say that the weather tends to the appearance of an *aguas* flowering in December and January, but reliable opinion is that it is much too early to predict anything of the sort, as such a blossom would depend much more on the weather still to be experienced than on that which is past."

The weather during this "next five or six weeks" has been just the kind necessary for an *aguas* or January flowering, i. e., almost continuously rainy and warm, and as previous January flowerings have been known to produce a million bags of coffee, the probability is worth some weight in calculation.

We quote further from the Brazilian Review of November 21, 1911:

"The weather in the interior of Sao Paulo should have been favorable to the flowering, but so far the reports are mostly of an irregular and sporadic blossoming. Undoubtedly it has as yet not been general, but as there are many reports of irregular flowerings, and as many a mickle makes a muckle it may be that the actual crop will come out at a higher figure than that at which it is now most generally placed."

Aside from these reports, which have to do with the general appearance and extent of the blossoms, we believe some consideration should be given to the condition of the trees themselves, which by systematic pruning and cultivation are more liable to produce a greater proportion of fruit than would be indicated by a profuse flowering where neglect of cultivation prevailed.

In substantiation we quote from a circular issued by Mr. Nortz, of Havre, upon his return from an extended trip through the whole coffee zone of Brazil:

"Never have the trees appeared so green and so strong, and this impression is shared by those who have been willing to take the time to inspect them closely. This is manifested upon arriving at Campinas, which really forms the entrance into the great coffee zone. It is here that we found a good many of the oldest plantations, dating back 50 years or more. Every time that we had previously seen these coffee trees we were impressed with their puny, aged appearance; but now, one might say that they had been expressly freshened up to make an impression on visitors. Great was my surprise to see these trees (which in the past seemed so miserable) covered with leaves, and the further we went into the interior the more marked was this impression. Generally, after harvesting and at the end of winter, which brings a normal falling of leaves, the top of the coffee trees present a grayish appearance. This year this was noticeably rare. This is a very important condition, and I took great care to verify same. This greenness of the trees has not simply been the result of rains out of season in the months of July and August, but because they followed the dryness at the beginning of the year, proving that the trees have recovered their full vitality. The change which is so apparent, outside of the natural causes and the rest that the trees have had during many years of moderate production, is especially due to the good treatment and the extreme care that the high prices have permitted to be given to their culture."

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In further substantiation we quote from the report of Mr. Buchanan, a director in the Dumont coffee estates:

"The advice I tendered to the directors when I came home was that we should increase the number of trees which we prune each year. For some years back we have always pruned a certain proportion, according to the labor which we have been able to get; but I strongly recommend to the board that they should try to increase this, for not only does pruning increase the yield and improve the trees, but it also tends to regulate the quantity of crops which we get from the whole estate every year, and it is a most desirable thing that we should get an even crop from the whole estate every year."

Further, we believe that considerable weight should be given to the belief that actual increased acreage will to some extent offset the unfavorable appearance of the flowering, and rightly should be considered in approximating the total fructification.

To many who have accepted at its face value the law which prohibited new planting, this perhaps will be startling information, but let the facts speak for themselves.

Mr. Nortz, in commenting upon statistics compiled by Mr. Gomez Texeira, notes:

"That of the 657,000,000 trees in the State of Sao Paulo, 120,000,000 are from one to eight years old; therefore few of them contributed to the large crop of 1906-7. I may also add that 20,000,000 of these trees have been secretly planted during the years of prohibition.

"Although the law preventing making new plantations has not yet been abolished, and although there are many people in Brazil who believe that it will continue to be applied, we have not met a planter in the interior of Sao Paulo who has not said he was ready to plant a certain quantity of trees, generally in the proportion of 10 to 20 per cent of what they already own.

"The truth is that for six months or so there has been a sort of fever among the planters of the State of Sao Paulo to plant new trees, especially since some of the larger planters have had certain privileges submitted to them which would make it easy for them.

"An offer of 2,750 contos de reis (\$88,000) has been offered for a plantation at Ilba Grande (Sorocabana), containing 550,000 square feet of trees in full force of production and 275,000 square feet that will not begin producing until next year. These latter trees are only four years old. We know of new trees having been planted in Bauris, Bebduro, Parana, etc., where the soil is fairly good. Those planting in the last-named State are not confronted with the tax of 5 francs per bag (which did not previously exist in the State of Sao Paulo), which is naturally an inducement for these planters to go into it, and for this reason, in spite of the higher railway freight rate, the planter in the State of Parana is placed in a much better position than in the adjacent districts of Sao Paulo."

From a careful review of all the facts, we can not persuade ourselves that despite the clamor of irregular flowering, the crop will be as small as 7,000,000 bags Santos, predicted by the leading bull interests; in all probability it will be normal, say 9 to 9½ million Santos. This, with the release of say 1 to 1½ million bags of valorization holdings and the conceded large crop of mild coffees, should not warrant any advance of values. We rather look for prices to recede considerably, believing that manipulation which has solely dominated our market for the past year can not go on continuously, for as surely as water seeks its level, so will the inexorable law of economic adjustment prevail.

Wishing you the compliments of the season,

Respectfully,

P. J. SHANNON & Co.

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Coffee statistics on June 1.

	1911	1910	1909	1908	1907
World's visible supply (decrease since May 1, 1903, 742).....	11,854,570	14,228,339	12,835,829	14,567,285	16,551,708
Santos receipts from July 1 to June 1.....	7,898,000	11,205,000	9,173,000	6,941,000	14,629,000
Rio receipts from July 1 to June 1.....	2,305,000	3,348,000	2,708,000	2,958,000	4,044,000
Total receipts from July 1 to June 1.....	10,203,000	14,553,000	11,881,000	9,899,000	18,673,000
Afloat from Santos for United States.....	186,000	1,000	.....	270,000	281,000
Afloat from Rio for United States.....	39,000	43,000	37,000	99,000	17,000
Afloat from Victoria for United States.....	11,000	14,000	22,000	26,000	15,000
Total afloat for United States.....	236,000	58,000	59,000	395,000	313,000
Stocks:					
Santos.....	961,000	1,778,000	496,000	729,000	2,343,000
Rio.....	335,000	170,000	80,000	216,000	925,000
Europe.....	7,278,129	8,771,695	8,270,132	9,457,956	7,554,732
United States.....	2,441,441	3,332,644	3,873,197	3,415,329	3,987,476
Arrivals principal ports of Europe:					
During May.....	684,394	555,420	433,187	622,375	1,304,800
From July 1 to June 1.....	8,229,757	10,836,344	9,287,117	11,427,301	12,096,304
Arrivals principal ports of United States:					
During May.....	381,421	229,154	207,579	442,701	551,620
From July 1 to June 1.....	5,879,707	6,440,529	7,588,079	6,056,778	6,830,339
Deliveries principal ports of Europe:					
During May.....	1,026,572	772,517	799,294	719,961	953,499
From July 1 to June 1.....	9,509,680	10,039,430	10,352,063	9,698,185	9,613,309
Deliveries principal ports of United States:					
During May.....	472,985	385,966	375,755	554,898	555,440
From July 1 to June 1.....	6,460,047	6,843,134	7,147,063	6,561,396	6,518,849
Milreis price per 10 kilos exchange standard No. 7 Santos.....	6\$250	3\$850	3\$450	3\$400	2\$600
Milreis price per 10 kilos exchange standard No. 7 Rio.....	7\$275	4\$525	4\$500	3\$575	3\$575
Rio exchange (par value 27d.).....	16 $\frac{1}{2}$	18	15 $\frac{1}{2}$	15 $\frac{1}{2}$	15 $\frac{1}{2}$
Bid price of June option closing June 1.....	10.70	6.15	7.00	6.05	5.45
Bid price for May option during that month:					
Highest.....	10.75	6.40	7.25	6.20	5.65
Lowest.....	10.40	6.20	6.95	5.80	5.45
Spot quotations of Rio exchange standard No. 7.....	12 $\frac{1}{2}$	8 $\frac{1}{2}$	7 $\frac{1}{2}$	6 $\frac{1}{2}$	6 $\frac{1}{2}$

Production and consumption of all kinds of coffee for the last 20 years.

Crop year.	Production (crops).			Consumption (deliveries).			World's visible supply on July 1.	Price of spot Rio 7s on July 1.
	Rio and Santos.	All others.	Total.	Total.	Production over consumption.	Consumption over production.		
1890-1.....	5,358,000	3,965,000	9,323,000	8,718,661	604,339	.....	1891..... 1,909,120	17 $\frac{1}{2}$
1891-92.....	7,397,000	4,582,000	11,979,000	10,804,551	1,174,449	.....	1892..... 2,955,023	12 $\frac{1}{2}$
1892-93.....	6,202,000	5,082,000	11,284,000	10,946,228	337,772	.....	1893..... 3,100,618	16 $\frac{1}{2}$
1893-94.....	4,309,000	5,092,000	9,401,000	10,571,533	.....	1,170,533	1894..... 2,146,423	16 $\frac{1}{2}$
1894-95.....	6,695,000	5,069,000	11,764,000	11,212,851	551,149	.....	1895..... 3,115,680	15 $\frac{1}{2}$
1895-96.....	5,476,000	4,901,600	10,377,000	11,142,813	.....	765,813	1896..... 2,588,193	13
1896-97.....	8,680,000	5,238,000	13,918,000	12,244,204	1,673,796	.....	1897..... 3,975,880	7 $\frac{1}{2}$
1897-98.....	10,462,000	5,596,000	16,058,000	14,571,902	1,486,098	.....	1898..... 5,435,974	6 $\frac{1}{2}$
1898-99.....	8,771,000	4,985,000	13,756,000	13,480,904	275,096	.....	1899..... 6,200,013	6 $\frac{1}{2}$
1899-1900.....	8,959,000	4,842,000	13,801,000	14,972,699	.....	1,171,699	1900..... 5,840,561	8 $\frac{1}{2}$
1900-1901.....	10,927,000	4,173,000	15,100,000	14,329,925	770,075	.....	1901..... 6,867,627	6
1901-2.....	15,439,000	4,296,000	19,735,000	15,516,663	4,218,337	.....	1902..... 11,261,331	5 $\frac{1}{2}$
1902-3.....	12,324,000	4,340,000	16,664,000	15,966,498	697,502	.....	1903..... 11,900,173	5 $\frac{1}{2}$
1903-4.....	10,408,000	5,575,000	15,983,000	16,133,707	.....	150,707	1904..... 12,361,454	7 $\frac{1}{2}$
1904-5.....	9,968,000	4,480,000	14,448,000	16,163,353	.....	1,715,353	1905..... 11,265,510	7 $\frac{1}{2}$
1905-6.....	10,227,000	4,565,000	14,792,000	16,741,215	.....	1,949,215	1906..... 9,636,563	7 $\frac{1}{2}$
1906-7.....	19,654,000	4,170,900	23,814,000	17,544,750	6,269,250	.....	1907..... 16,399,954	6 $\frac{1}{2}$
1907-8.....	10,285,000	4,551,000	14,834,000	17,525,418	.....	2,691,418	1908..... 14,126,227	6 $\frac{1}{2}$
1908-9.....	12,419,000	4,499,000	16,918,000	18,649,602	.....	1,731,602	1909..... 12,841,057	7 $\frac{1}{2}$
1909-10.....	14,944,000	4,181,000	19,125,000	18,098,474	1,026,526	.....	1910..... 13,719,530	8 $\frac{1}{2}$

PARAGRAPH 541—COFFEE.

Average price of spot Rio 7s on July 1 for last 20 years 9.44.

NOTE.—These statistics are issued monthly and made up from figures of the Coffee Exchange of the City of New York. We suggested that they be filed for reference. Compliments of Steinwender Stoffregen & Co., 87 and 89 Wall Street, New York.

JUNE 1, 1911.

BRIEF OF R. E. HILLS, DELAWARE, OHIO.

HOUSE OF REPRESENTATIVES,
Washington, July 13, 1912.

HON. OSCAR UNDERWOOD,
House of Representatives.

DEAR MR. UNDERWOOD: I am taking the liberty of sending you herewith a letter from Mr. R. E. Hills of the V. T. Hills Co., wholesale grocers, of Delaware, Ohio, relative to the valorization of coffee. Of course I do not know whether any further tariff legislation is contemplated at this session of Congress, but I thought it appropriate to get the suggestion of Mr. Hills to you. I know Mr. Hills personally, and he is a very competent and successful business man and gives much attention to public questions. Thanking you for any attention you may be able to give this matter, I am,

Yours, very respectfully,

FRANK B. WILLIS.

DELAWARE, OHIO, *July 11, 1912*

HON. FRANK B. WILLIS,
House of Representatives, Washington, D. C.

MY DEAR MR. WILLIS: I have been considerably exercised recently, and indeed for some time past, by the situation in this country in connection with the price of Brazilian coffee. You are aware, without doubt, of the fact that the price of Rio and Santos coffees in this country to the consumer has been increased just about 100 per cent since the valorization scheme has been in operation, largely as the result of the scheme.

This is not particularly a matter which concerns the wholesale or the retail dealer in this commodity. Our profit is largely governed by percentage arrangement, and therefore, on coffee selling to the retail dealer at 24 cents we make more profit per pound than if we sold the same goods at 12 cents, but, in the interest of the consumer, it is a matter of concern to the dealers.

I notice the Government has been embarrassed recently in one department by another department bringing suit against a stock of this coffee in New York City. I notice also that France has gone after the same parties for the same reason.

Now I am not much of a statesman, but it has occurred to me in thinking over the situation that the proper way to deal with Brazil in this matter is by means of retaliatory legislation. If reciprocity is good why not use a little negative reciprocity in this kind of a case. The solution seems simple, which would simply be of levying an import tax on coffee coming from a country levying an export tax on the same goods, and I would favor making the import tax 100 per cent larger than the export tax from the producing country. The immediate effect of this of course would be to increase the cost of these goods to our consumers, but the ultimate effect would be to encourage the importation from countries located in Mexico, Central America, and the northern part of South America, which to-day produce as good coffees as we are getting now from Santos.

It has taken Brazil something like five years (I have not the dates at hand) to bring about the present conditions which are such as show a profit to the producers in Brazil and a tremendous profit to the syndicate which has handled the loan and purchase. I figure that in the course of a few years on the plan that I suggest we would be importing the bulk of our South American grades of coffee at a cost to our consumers of not over 60 per cent of what these goods cost them now.

It may be, Mr. Willis, that this is a question you have thought of and thought out much more fully than I have, and if my suggestions are not worth considering or for any reason are entirely impracticable, I would not ask you to consider them further, but I am impressed with the fact that the Government of Brazil and the government of three of their individual States and the syndicate of European and American capitalists, who have been parties to this deal, have reaped enormous profits and the consuming public has paid the bill, and it seems as if we of the United States are

PARAGRAPH 541—COFFEE.

sitting still and drinking our usual morning cup of coffee with perfect equanimity and acting as if we were entirely willing to be parties to this transaction.

Yours, sincerely,

R. E. HILLS.

LETTER OF T. E. JAMISON, ROANOKE, VA.

ROANOKE, VA., December 20, 1911.

Hon. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: I have been requested to address you in reference to the situation on coffee, and as I am writing Hon. Thos. Gallagher, I herewith inclose to you copy of my letter, which expresses my views in reference to coffee.

If I can be of further service, please command me.

Yours, very truly,

T. E. JAMISON.

DECEMBER 20, 1911.

Hon. THOS. GALLAGHER, M. C.,

Washington, D. C.

DEAR SIR: I beg to acknowledge receipt of your favor of December 15, and note very carefully what you have to say in reference to coffee. There is no question in my mind but what the coffee market has been manipulated in the last two years in such a manner as to advance prices very materially and to exact from the consumer more money than, in my judgment, is necessary, as when you take into consideration the amount of coffee in sight including the amount in the hands of the valorization committee there is no scarcity of coffee.

I suggested a plan to Hon. G. W. Norris some time ago to place an internal revenue tax on all dealers in coffee that handle more than 200,000 bags, based on 130 pounds to the bag, or 26,000,000 pounds annually. Any excess of this quantity, up to 50,000 bags additional, or 6,500,000 pounds, to bear one-half cent per pound internal revenue tax. The tax then to increase in multiples of one-half cent per pound on each additional 50,000 bags, or 6,500,000 pounds. All coffee bought on exchange anywhere in the United States to be counted as spot coffee.

The object of this plan is to allow all dealers in coffee to do a very large volume of business without paying any internal revenue tax and to permit all coffee on import to be free of duty. This plan is absolutely fair to all dealers, and in my judgment, would prevent any concern from cornering the market and controlling the price of coffee.

I have been informed that the valorization committee has over a million bags of coffee in storage in New York. Under this plan the valorization coffee, if the law were effective, would bring a revenue to the Government under this plan of more than \$4,000,000. I can not help but believe that the valorization scheme is responsible to a large extent for our present high price on coffee and if this is true, which I believe it is, the Brazilian Government has exacted from the consumers of this country on account of the valorization scheme millions and millions of dollars. It would be hard to estimate the amount, but as this country consumes from nine to eleven pounds of coffee per capita, based on 90,000,000 people, that would be 900,000,000 pounds of coffee.

No. 7 exchange standards have advanced about 6 cents per pound in the last two years, and according to this estimate it would amount to \$54,000,000. If the above plan were adopted it would prevent at any time in the future any cornering or manipulation of prices, for the reason that no one dealer could accumulate large quantities of coffee without paying an internal-revenue tax; while, on the other hand, any dealer could continue to import coffee free of duty.

It has been suggested that a better way to handle the coffee situation would be to allow this country to import up to the limit of consumption and in addition to this quantity to place an import duty. This, in my judgment, would have a tendency to induce large moneyed interests to purchase large quantities of coffee, for the reason that when they had controlled the amount up to the limit of consumption any additional imports would pay a duty which would encourage and foster speculation and would assist in helping to corner the coffee in this country.

I have given the coffee situation very careful study for the last two years, and honestly believe that the plan suggested would solve the problem of most of our troubles in reference to coffee. I doubt exceedingly if there are half dozen dealers in this country that would handle more than 26,000,000 pounds of coffee annually.

PARAGRAPH 543—COIR YARN.

I therefore trust that you may find some fruit in my suggestion and that you may be able to work out a plan that will be effective. If I can be of further assistance, I will gladly come to Washington and go into the matter with you more thoroughly.

Yours, very truly.

PARAGRAPH 542.

Coins of gold, silver, copper, or other metal.

PARAGRAPH 543.

Coir, and coir yarn.

COIR YARN.**TESTIMONY OF FRED M. CLEVELAND, REPRESENTING JOSEPH WILD & CO., AND HEYWOOD BROS. & WAKEFIELD, WAKEFIELD, MASS.**

The witness was duly sworn by the chairman.

Mr. CLEVELAND. Mr. Chairman, I wish to speak in regard to the free list, in regard to two items. We, manufacturers of cocoa mats and matting, request that coir yarn, or cocoa yarn or fiber, which are imported free of duty under section 543 of the free list, be left upon the free list in any revision of the tariff which may be suggested by your committee.

The materials that we use in the manufacture of doormats and cocoa mattings are not products of this country at all. The entire supply is produced on the Malabar Coast of India and on the Island of Ceylon, with probably more than 90 per cent of the production being on the Malabar Coast. There is no cocoa fiber made in this country or its dependencies, and no cocoa yarn is spun in this country. Cocoa yarn and cocoa fiber are imported free of duty into Germany, Belgium, and Great Britain, where there is extensive manufacturing of cocoa mats and cocoa mattings. The prices paid in these countries for the labor in manufacturing mats and mattings are very much lower than the prices paid in the United States, and any duties placed upon the raw material of the American manufacturers will be a most serious handicap to them in competing against the steadily growing sale of mats and mattings imported into the United States from these countries. We could not stand under any duty on those in competition with the manufacturers in foreign countries.

Mr. HARRISON. Does not your product come into competition with the mattings made out of the Japanese and Chinese straws?

Mr. CLEVELAND. Not at all, sir; it is different kind of matting; very limited in its sale.

Mr. HARRISON. Does it come into competition with the floor coverings made out of wire grass in Minnesota?

Mr. CLEVELAND. It has been put largely out of business by the mattings made out of wire grass, made in Minnesota. We sell very little matting as compared with what we used to, for the reason that the wire-grass matting is very much cheaper than the cocoa matting can be made; there is still a limited use for cocoa matting, and you will probably find it in any hotel, a strip laid down on a rainy day.

The CHAIRMAN. Go ahead with your statement.

PARAGRAPH 543—COIR PARN.

Mr. CLEVELAND. The next topic which I wish to take up is section 713 of the free list of the tariff act of 1909, the second clause of which reads as follows:

Sticks of partridge, hair, wood, pimento, orange, myrtle, bamboo, rattan, reeds, unmanufactured, India malacca, joints, and other woods not specially provided for in this section in the rough, or not further advanced than cut into lengths suitable for sticks for umbrellas, parasols, sunshades, whips, fishing rods, or walking canes.

We respectfully request that this clause be amended by the omission of the words, "reeds unmanufactured." Reeds are manufactured from rattan, and the present wording of the tariff makes a conflict between the free list and section 212 of Schedule D, under which reeds are subject to duty.

The CHAIRMAN. What has been the ruling of the courts as to that; which section did they make apply?

Mr. CLEVELAND. The customs authorities have construed that reeds of sizes suitable for the manufacture of whips one-quarter of an inch in diameter and larger should be allowed free entry under this clause in the free list. Such reeds can not be unmanufactured, as they are made only by the process of splitting rattan, and they ought not to come in free of duty, as should rattan itself. A tax now is proposed on reeds smaller than one-quarter of an inch.

The CHAIRMAN. Then, if we followed your suggestion we would throw some of these reeds that are now admitted free of duty into the tax list?

Mr. CLEVELAND. You would, sir.

The CHAIRMAN. Now give us the reason why you think that ought to be done.

Mr. CLEVELAND. The reason is this: These reeds are not unmanufactured; they are not a natural product; they are made only by the process of splitting rattan. Under the present administration of the tariff as it stands to-day a very large percentage of the reeds which are allowed free entry, one-quarter of an inch in diameter and larger, are not brought in for the manufacture of whips, but used for the manufacture of furniture and for other purposes.

The CHAIRMAN. What rate of duty is there under the present section; what percentage?

Mr. CLEVELAND. They pay 10 per cent ad valorem, under section 212 of Schedule D.

Mr. HARRISON. And what amendment did you propose?

Mr. CLEVELAND. We would strike out the words, "reeds unmanufactured."

Mr. HARRISON. How much of that class of goods is being made in this country to-day, reeds unmanufactured?

Mr. CLEVELAND. I should say perhaps \$750,000 worth.

Mr. HARRISON. How much is imported as free?

Mr. CLEVELAND. As free?

The CHAIRMAN. How much is being imported as free, which comes in free, the free portion of this?

Mr. CLEVELAND. I do not know that I can tell you that exactly.

Mr. HARRISON. \$913,000 worth.

The CHAIRMAN. Coming in free, and you can manufacture \$750,000 worth?

Mr. CLEVELAND. About that; yes, sir.

PARAGRAPH 543—COIR YARN;

The CHAIRMAN. Why do you want that taxed? Nine hundred dollars worth coming in that shape, and you are making \$750,000 worth out of it. Why do you care whether it is protected or not?

Mr. CLEVELAND. For the reason that the prices at which those large-sized reeds are brought in and sold are so low that they keep our prices down to a level which is too low.

The CHAIRMAN. It is only \$900 worth?

Mr. CLEVELAND. \$900,000 worth.

The CHAIRMAN. Oh, I was mistaken about that; about \$900,000 worth coming and about \$750,000 worth manufactured?

Mr. CLEVELAND. Approximately, I should say. Mr. Chairman, it seems that there was some misunderstanding in regard to the time that we were to be allotted, and I have here two briefs, one in regard to cocoa mats and mattings, and the other in regard to reeds and canes. If it is agreeable to the committee, I will not take any more time to read those, but I will file them.

The CHAIRMAN. You may file them and they will be printed in to-day's proceedings, and we will consider them. We will now hear some gentleman representing McCormick & Co., of Baltimore.

BRIEF OF HEYWOOD BROS. & WAKEFIELD CO., JOSEPH WILD & CO., DARRAGH & SMAIL.

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

We, the undersigned, manufacturers of cocoa mats and mattings, request that coir and coir yarn, or cocoa yarn or fiber, which are imported free of duty under section 543 of the free list, be left upon the free list in any revision of the tariff which may be suggested by your honorable committee.

Cocoa yarn and cocoa fiber are the materials used in the manufacture of cocoa mats and mattings. The entire supply is produced on the Malabar coast of India and on the island of Ceylon, with probably more than 90 per cent of the production being on the Malabar coast. There is no cocoa fiber made in this country or its dependencies, and no cocoa yarn is spun in this country. Cocoa yarn and cocoa fiber are imported free of duty into Germany, Belgium, and Great Britain, where there is extensive manufacturing of cocoa mats and mattings. The prices paid in these countries for the labor in manufacturing mats and mattings are very much lower than the prices paid in the United States, and any duty placed upon the raw material of the American manufacturers will be a most serious handicap to them in competing against the steadily growing sale of mats and mattings imported into the United States from these countries.

HEYWOOD BROS. & WAKEFIELD CO.,
By FRED M. CLEVELAND,
JOSEPH WILD & CO.,
By HENRY ANDERSON.
DARRAGH & SMAIL.

NEW YORK, January 29, 1913.

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: Referring to section 543 of free list, tariff of 1909, we beg to indorse the views expressed in brief presented by Messrs. Heywood Bros. & Wakefield Co., of Wakefield, Mass., and Joseph Wild & Co., of New York, as to the retention of coir yarn and fiber on the free list.

We are, gentlemen,
Your obedient servants,

DARRAGH & SMAIL.
A. T. McVICAR.

PARAGRAPH 544—COPPER.**PARAGRAPH 544.**

Copper ore; regulus of, and black or coarse copper, and copper cement; old copper, fit only for remanufacture, clippings from new copper, and copper in plates, bars, ingots, or pigs, not manufactured or specially provided for in this section.

COPPER.**BRIEF OF ARTHUR SELIGMANN, NEW YORK, N. Y., ON COPPER.**

NEW YORK, *January 28, 1913.*

HON. OSCAR W. UNDERWOOD,
*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

DEAR SIR: We respectfully wish to call your attention to an oversight in the last tariff law in so far as it was overlooked to state that copper in all forms is free. Such stipulation was in the previous tariff law and lately there have been difficulties to determine the correct classification under which certain forms of copper should come in. We particularly refer to copper ashes or residues which are sometimes also called copper scale and are a refuse material which is accumulated by the manufacturers using the pure copper. Naturally, as long as the refined and pure copper comes in free, the refuse material should also come in free of duty. Lately the appraisers have been undecided as to what to do with these importations, as they are not classified, and their opinions are divided as to whether such material as we mention above should not come in as waste material (not specially provided for) and pay 10 per cent ad valorem. Needless to say, the intention of the framers of the tariff law was not to levy a duty on ashes or residues of copper as long as they are allowing free import of the pure and refined metal. I might add that the above-mentioned article is only fit for remanufacture, and as it shows only about 80 per cent of copper, balance being mostly detrimental ingredients, the value is correspondingly lower than pure copper. We would thank you for looking into this matter and, if possible, add a stipulation in the proposed tariff law that "copper ashes, residues, or scale are free of duty." If this should not be feasible, we would suggest that the old wording that "copper in all forms" is free, be again adopted, which could give the officers of the customhouse the necessary classification under which such refuse material as we mention above would be imported free.

I also wish to mention that if there is any duty levied it would be impossible to import these goods, as naturally it would be cheaper for the buyer to pay the price of pure copper than to buy the refuse with a duty added.

Your kind attention will greatly oblige, yours, very truly,

ARTHUR SELIGMANN.

**L. VOGELSTEIN & CO., NEW YORK, N. Y., WRITE ON COPPER
ASHES, ETC.**

NEW YORK, *January 13, 1913.*

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: In view of the motion on foot to place a duty on copper scale, we respectfully beg to submit the following:

Heretofore copper scale has been imported free of duty, being classified as black or coarse copper, which is on the free list under paragraph 544. Copper scale is a by-product coming from copper rolling mills. It is the oxide or scale which forms on the surface of the copper when in the annealing furnace, and it is being gathered principally from the water tanks in which the copper is being cooled in order to give it the red color, but partly it is being swept up under the rolls.

The latter product has absolutely no value except for remelting or for dissolving in acid. The former product has some other usages. The production of clean copper scale in this country is insufficient to supply the demand, and we think that copper scale can properly be classified under paragraph 544, which includes also the clause that it is "old and fit only for remanufacture," but, in view of the fact that the collector recently intended to classify copper scale under paragraph 479, we respectfully suggest that the article be specifically mentioned as being free under the new tariff. We feel sure that it is the intention of a paragraph like 544 to have such products come in

PARAGRAPH 549—KRYOLITH.

free, and it would only hamper American industries if a tariff was imposed on such material.

Yours, very truly,

L. VOGELSTEIN & Co.,
Agents for Aron Hirsh & Sohn.

PARAGRAPH 545.

Composition metal of which copper is the component material of chief value, not specially provided for in this section.

PARAGRAPH 546.

Coral, marine, uncut, and unmanufactured.

PARAGRAPH 547.

Cork wood, or cork bark, unmanufactured.

PARAGRAPH 548.

Cotton, and cotton waste or flocks.

PARAGRAPH 549.

Cryolite, or kryolith.

KRYOLITH.

PENNSYLVANIA SALT MANUFACTURING Co.,
MANUFACTURING CHEMISTS AND IMPORTERS OF KRYOLITH,
115 CHESTNUT STREET,
Philadelphia, December 13, 1912.

HON. OSCAR W. UNDERWOOD,
*Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.*

DEAR SIR: This article, which is a mineral mined in Greenland and shipped into this country, has been on the free list over 40 years and properly so. In order, however, that the item should not be subject to misconception, we respectfully recommend the addition of the word "crude," this making the article on the free list read "Kryolith, crude." We suggest this in the knowledge that a synthetic article, distinctively a chemical compound, has been passed free by the customs authorities, though manifestly subject to a duty. Crude kryolith, in order to be made marketable, must be subjected to an expensive treatment for separating from impurities, as the original article contains many other minerals besides kryolith itself, and the selling of a manufactured imitation under the pretense that it is the real article is made possible by its free admission, all of which would be corrected by the introduction of the word "crude" as above stated.

Respectfully submitting above, we are,

Yours, truly,

PENNSYLVANIA SALT MANUFACTURING Co.,
THEO. ARMSTRONG, *President.*

PARAGRAPH 550.

Cudbear.

PARAGRAPH 551.

Curling stones, or quoits, and curling-stone handles.

PARAGRAPH 552.

Curry, and curry powder.

PARAGRAPH 553.

Cuttlefish bone.

PARAGRAPH 554.

Dandelion roots, raw, dried, or undried, but unground.

PARAGRAPH 555.

Diamonds and other precious stones, rough, or uncut, and not advanced in condition or value from their natural state by cleaving, splitting, cutting, or other process, including glaziers' and engravers' diamonds not set.

PARAGRAPH 566—MINERS' DIAMONDS.

PARAGRAPH 556.

Miners' diamonds, whether in their natural form or broken, and bort; any of the foregoing not set, and diamond dust.

MINERS' DIAMONDS.

BRIEF OF A. L. A. HIMMELWIGHT, NEW YORK, N. Y.

THE STEEL SET DIAMOND CO.,
Room 910, No. 46 WEST TWENTY-FOURTH STREET,
New York, N. Y., December 14, 1912.

UNITED STATES CUSTOMS DEPARTMENT,
Washington, D. C.

DEAR SIR: In behalf of the Steel Set Diamond Co., which concern was obliged to discontinue business a year ago, the writer wishes to call your attention to what in his opinion is an injustice and which caused the discontinuation of the Steel Set Diamond Co.'s business. I refer to the present conditions in regard to the importation of drilled diamonds.

About 10 years ago the Steel Set Diamond Co. imported a large number of drilling and polishing machines at considerable expense and engaged in manufacturing diamond wire dies on a large scale. A large number of stones were drilled and polished from which dies were made. Later it was discovered that competitors of the company were importing the stones already drilled and could sell dies made by them at a fair profit and at a price that represented less than the actual cost of manufacturing to the Steel Set Diamond Co. Owing to the superiority of the dies manufactured by the Steel Set Diamond Co., which fact it was possible to establish after a few years, the company was able to sell a number of dies at higher prices, but it was impossible to build up a sufficiently extensive business under those conditions to make it profitable, so that last year the company was obliged to suspend business and discontinue.

Your attention is called to the duty on imported drilled stones, which is so low at the present time as to prevent American workmen from competing in producing these dies. The duty on imported drilled diamonds of this character should be increased at least \$2 or \$3 per drilled stone in order to enable American workmen to compete.

It is understood that imported drilled stones coming from European countries, where exceedingly low wages are paid the workmen, permit the manufacture of dies in this country at prices that American manufacturers can not compete with. If diamonds were produced in this country, the situation would be entirely different, but as the stones must be imported there is no other possible means of protecting American workmen and concerns in this line.

It is hoped that the new administration in taking up the tariff revision will give this specific matter some attention and adjust the duties so that American workmen can compete in drilling the stones used in the manufacture of wire dies.

Yours, very truly,

A. L. A. HIMMELWIGHT.

PARAGRAPH 557.

Divi-divi.

PARAGRAPH 558.

Dragon's blood.

PARAGRAPH 559—CRUDE DRUGS, ETC.**PARAGRAPH 559.**

Drugs, such as barks, beans, berries, balsams, buds, bulbs, bulbous roots, excrescences, fruits, flowers, dried fibers, dried insects, grains, gums, gum resin, herbs, leaves, lichens, mosses, nuts, nutgalls, roots, stems, spices, vegetables, seeds (aromatic, not garden seeds), seeds of morbid growth, weeds, and woods used expressly for dyeing or tanning; any of the foregoing which are natural and uncompounded drugs and not edible and not specially provided for in this section, and are in a crude state, not advanced in value or condition by any process or treatment whatever beyond that essential to the proper packing of the drugs and the prevention of decay or deterioration pending manufacture: Provided, That no article containing alcohol, or in the preparation of which alcohol is used, shall be admitted free of duty under this paragraph.

CRUDE DRUGS, ETC.**TESTIMONY OF W. J. SCHIEFFELIN, OF SCHIEFFELIN & CO.,
NEW YORK.**

The witness was duly sworn by the chairman.

Mr. HARRISON. You may proceed, Mr. Schieffelin.

Mr. SCHIEFFELIN. I have submitted a brief regarding crude drugs that are now on the free list, showing the number that were imported last year and the values, and the small amount of revenue that would accrue if they were made dutiable, and our plea is that they are scarcely what could be called luxuries, hardly anything of these things people would buy if they could avoid them, and that enhancing their cost would be adding to the suffering of those who are sick.

Mr. HARRISON. You do not believe that they are covered by the definition that has been used here by several gentlemen as articles of voluntary consumption.

Mr. SCHIEFFELIN. Scarcely.

Now, the suggestion has been made in a separate bill introduced last spring that preparations as well as surgical instruments used in hospital practice should have a reduced duty or be put on the free list. Of course, in the interest of the hospitals which are doing charitable work absolutely free, there is a strong argument in favor of that, and I believe those who are to ask that such things be put on the free list will appear before you to-day or to-morrow, and I simply want to urge that in the case of patented drugs that are more or less experimental, and that are not made in this country, and where the hospitals are regarded as educational and experimental institutions, such an exception might well be made. For instance, new drugs like "Salvarsan" ought surely to be gotten here at as low a price for trial as possible, but there is a very serious aspect in the suggestion to make this cover all the drugs used by the hospitals, because it might very well cause such inroads into the sales of those who make medicinal chemicals and plasters, the manufacturers on this side, that it would discourage and minimize the production to such an extent that if there came a time when for any reason, war or otherwise, we had to depend upon our own products, it would be a matter of serious public concern to be unable to produce a sufficient amount, and therefore, I would suggest that if any such provision be made, it be made to apply to those medicinal products not now manufactured in

PARAGRAPH 559—CRUDE DRUGS, ETC.

this country; and we would be glad if the committee would get the opinion of those who are advocating this change when they come to appear before them.

Mr. HILL. Would not you strike out the word "now"?

Mr. SCHIEFFELIN. How do you mean?

Mr. HILL. Haven't you made a suggestion "not manufactured in this country," so that the law would be continuous in effect?

Mr. SCHIEFFELIN. Certainly, I think that would be perfectly fair, and I think in the brief I have submitted the question of crude drugs is detailed. There is one point, it is very likely that the trouble and cost of collecting the duties would not leave a very large balance to be applied to revenue, and I think the total revenue that could be obtained will be in the neighborhood of a half million dollars, and I trust the committee will agree and decide that these are hardly subjects of added revenue.

The witness at a later date filed the following documents:

NEW YORK, December 3, 1913.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: In behalf of the wholesale druggists of New York, and also of my own company, I have the honor to plead that crude drugs be kept upon the free list. The importations reported by the Bureau of Foreign and Domestic Commerce for the year ending June 30, 1912, as per annexed list, amounted to \$4,041,590, made up of 36 different articles used in medicine. We urge that the revenue which might be secured by imposing duties upon these goods would be inconsiderable in comparison to the hardship which the enhanced price would inflict upon the sick and suffering. The time-honored policy of admitting free of duty crude medicinal substances, which are almost without exception not produced in this country, should not, in our opinion, be reversed. If a duty were imposed, it would doubtless have to be a specific duty in each case, owing to the fluctuations in values.

While there is no doubt that it will be feasible to increase prices in order to meet such duty, it must not be forgotten that the cost of collection on such a wide variety of products will considerably reduce the net revenue obtained therefrom.

Respectfully submitted on behalf of the Metropolitan Drug Club, composed of the wholesale druggists of New York, Schieffelin & Co., and drug trade section of the New York Board of Trade and Transportation.

WM. JAY SCHIEFFELIN, *President.*

The importations of crude drugs on the free list for the year ending June 30, 1912, were valued at \$4,041,590.93.

NEW YORK, December 28, 1912.

HON. O. W. UNDERWOOD,

*Chairman Committee on Ways and Means,
Washington, D. C.*

DEAR SIR: Under Schedule A, we respectfully submit that crude drugs and medicinal chemicals, now on the free list, should be allowed to remain free of duty. The revenue obtained would not be large, and the enhanced price would have to be borne by those least able to pay it, namely, the sick. For the reason we suggest that cod-liver oil should have a lower duty, and also olive oil, which, however, would come under the head of "Foods."

Under Schedule G, section 287, we urge the reduction or abolition of the duty on extract of meat, which is used for preparing bouillon, and the bulk of which is now, we believe, sold in the form of bouillon cubes.

During the year ending June 30, 1912, the Bureau of Foreign and Domestic Commerce reported that the amount collected as duty on extracts of meat amounted to, in round figures, about \$57,000.

PARAGRAPH 559—CRUDE DRUGS, ETC.

We are certain that importations will be largely increased if the duty is reduced or abolished.

Yours, very truly,

SCHIEFFELIN & Co.

WM. JAY SCHIEFFELIN, *President.*

**TESTIMONY OF DR. S. H. BAER, ST. LOUIS, MO., REPRESENTING
THE FLAVORING EXTRACT MANUFACTURING ASSOCIATION
OF THE UNITED STATES.**

The witness was duly sworn by the chairman.

Dr. BAER. I appear as the representative of the flavoring-extract manufacturers of the United States, who protest against the proposed duty of 50 cents per pound on vanilla beans. We come simply as representatives of the trade to present our views on this subject from the standpoint of the consumer and the manufacturer. We must look to the consumer for the use of our products, and as a result we are more solicitous of the consumer's interests than those of the merchants who handle our goods. It is the ultimate consumer who is the factor which keeps the wheels of industry in motion, and the consumer would have ultimately to pay for the additional duty. Your attention is called to four ways in which the proposed duty will affect the people as a whole. First, it will raise the price to the American consumer and add to the present high cost of living; second, it will curtail export business; third, it will put an excessive tax on flavoring extracts; fourth, it will not promote any industry in this country.

Vanilla beans are practically used exclusively for the making of vanilla flavoring, and vanilla extract constitutes nearly 80 per cent of the extracts used by the housewife in the flavoring of puddings, cakes, desserts, ice cream, confectionery, etc., and, together with the other flavors, is a household necessity. The addition of a duty of 50 cents per pound on vanilla beans would entail such an increase in the cost of pure vanilla extract as would necessitate the raising of the price to the consumer either by charging more money for the goods or by reducing the size of the bottle. The result of this would be practically to force the mass of consumers to the use of imitation flavors, and that we do not believe it is your desire to do.

Mr. HARRISON. I understood your reasoning to be that there was no use in putting a duty on vanilla beans because it would not stimulate the growing of vanilla beans in this country?

Dr. BAER. Yes, sir.

Mr. HARRISON. Of course, we agree with that. You could not grow the beans, because the climate is not suited to it. The purpose of putting a tax of 50 cents a pound on vanilla beans which was 29½ per cent ad valorem on last year's prices was that it would mean a raise of \$575,000 worth of revenue. The committee considered that vanilla beans go largely into the making of sweets and semiluxuries and would be a very good source from which to raise some revenue. Gentlemen who appear here very often consider the tariff only from a protective point of view.

Dr. BAER. I will omit the reference to the protective point of view and take the point of view of the export business and show you from that point of view how the addition of these duties would practically shut off the mass of manufacturers from any participation

PARAGRAPH 559—CRUDE DRUGS, ETC.

whatever in the export trade and how the consumer would have to pay on a 10-cent bottle of extract pretty close to a 4-cent tax on the lemon extract and on the vanilla extract 2 cents tax.

Mr. HARRISON. What would be the possibility of replacing the extract of vanilla beans on this market if this tax were imposed?

Dr. BAER. If you gentlemen should place a duty of that kind on vanilla extract, the result would be to force the 10-cent seller of pure extract to a 15-cent seller.

Mr. HARRISON. Do you take the position that vanillin is unhealthy or injurious in any way?

Dr. BAER. I am a doctor of philosophy and not a doctor of medicine, so I could not qualify for that question.

Mr. HARRISON. Are you a manufacturer of vanilla extracts?

Dr. BAER. Yes, sir.

Mr. HARRISON. As a manufacturer, do you consider that your rival product is an injurious one?

Dr. BAER. No; but the tendency of the time is for the people to use pure foods as far as possible and not goods that are imitation, and that was the object of the pure-food law in compelling manufacturers to put up a pure extract of lemon as distinguished from an imitation extract.

Mr. HARRISON. It is not at all impossible in spite of all the efforts of manufacturers of vanilla extract that the imitation will gradually drive them out of the market?

Dr. BAER. Before the pure-food law went into effect the proportion of 10-cent extract sold was about 12 gross of imitation to 1 gross of pure. We make a specialty of putting up private brands of extracts for wholesale grocers, and they buy only the pure extract. They say that the demand is for pure goods, showing that the education of the people to use pure goods has induced them to insist upon using pure goods in preference to the other. They do not like the word "imitation" on the bottle.

Mr. HARRISON. You do not have any objection to our proposed reduction on vanillin to 40 per cent?

Dr. BAER. No, sir. I think that is a good thing, because that will enable the American manufacturer to make their product equal in quality to that made by the foreign manufacturer and give the foreign manufacturers a chance to force them to do that.

Mr. LONGWORTH. What is vanillin made of?

Dr. BAER. It is made from eugenol, which is originally a principal constituent of oil of cloves, and it is an extract from the clove pod, and it can be obtained chemically from the oxidation of eugenol, and also as a product of the decomposition of coniferin.

Mr. LONGWORTH. And we reduced the duty on vanillin in the main law from 50 to 20 cents; has that stimulated the imports?

Mr. HARRISON. Up to the extent of \$34 in one year.

Dr. BAER. It is practically prohibitive.

What I have said about vanilla will apply to the essential oils. I would like to go into the export trade.

Mr. HARRISON. Would you not get the benefit of a drawback on vanilla beans or essential oils?

Dr. BAER. That will apply only to alcohol.

PARAGRAPH 559—CRUDE DRUGS, ETC.

Mr. HARRISON. I beg your pardon. It would apply to the materials for manufacture which you import from abroad made into American products; you could get a drawback of 99 per cent on the duty you paid, when you come to export.

Dr. BAER. In that case, then, your proposed duty would not affect the import business. I will pass that. I was not aware of this drawback.

The CHAIRMAN (interposing). The law as it stands to-day, and as it will probably stand to-morrow, allows the American manufacturer, wherever he brings in an article and manufactures it and reexports it, to get a drawback of 99 per cent, and the Government takes 1 per cent for its trouble and expense in administering the law. That would not affect the import trade at all.

Dr. BAER. Regarding the excessive tax in the manufacture of vanilla extract, at least one-half a gallon of high proof spirit is used, and you, of course, realize that the internal-revenue tax on 1 gallon of proof spirit is \$1.10 of the \$1.35 we pay for the proof gallon of spirit, or a tax of \$2.09 of the \$2.60 we pay for the high proof. On the cost of a gallon of vanilla extract, then, the revenue tax on the spirit alone is 25 per cent of the cost of the product. This tax, of course, the consumer eventually pays.

Take the case of lemon extract. To comply with the standards enunciated by the Department of Agriculture, a gallon of standard extract of lemon contains 111.8 fluid ounces of 190 proof alcohol—83 per cent absolute alcohol—which costs \$2.28 with 190 proof alcohol at \$2.60 per gallon.

This extract contains—a gallon of lemon extract contains 6.4 per cent fluid ounces of oil of lemon, 5 per cent by volume, which costs \$1.07 at \$3 per pound for oil of lemon, which is the present price.

This makes a total cost of raw material in a gallon of standard extract of \$3.35. Of this cost \$1.83 represents the internal-revenue tax on the alcohol used.

In other words, 54 per cent of the present cost of the gallon of lemon extract is tax. Now, if you add to this a duty of 20 per cent ad valorem on the oil of lemon used, 61 per cent of the cost will be tax, and this tax the consumer would have to pay.

Mr. HARRISON. Using the alcohol as a solvent, could not denatured alcohol be used?

Dr. BAER. We can not.

Mr. HARRISON. Because it is used in some instances as a food product afterwards?

Dr. BAER. Yes, sir; anything that is used as a denaturant would very likely harm the flavoring ingredients—the lemon extract or vanilla extract.

In the second place, there is the possibility of the redistilling of the alcohol in a small way by the possible consumers where they bought it in larger quantities, and use the alcohol as a beverage. If that could be prevented we could save on the tax by having a paid inspector in our factories; we would be willing to pay the inspector's salary ourselves.

Mr. HARRISON. Of course, the lemon oil is now on the free list.

Dr. BAER. Yes; the lemon oil is on the free list.

PARAGRAPH 559—CRUDE DRUGS, ETC.

Mr. HARRISON. We propose to put a tax of 20 per cent ad valorem on it.

Dr. BAER. The price of lemon oil to-day is \$3.25.

Mr. HARRISON. So that, as a matter of fact, you are in no worse a position so far as the internal-revenue tax is concerned than you were before.

Dr. BAER. No, sir; 54 per cent on a gallon of lemon extract.

Mr. HARRISON. So far as your exporting trade in flavoring extracts is concerned, our chemical schedule contained a drawback clause to reimburse you for the internal-revenue tax.

Dr. BAER. In this country on a gallon of lemon extract that costs \$3.35 there is an internal-revenue tax of \$1.83. That makes 54 per cent of the cost of the lemon extract. If you put on a 20 per cent ad valorem duty at the present price of lemon oil, you will bring the cost up to 61 per cent, which is a higher tax, I am informed, than any industry with exception of cigars and liquors.

Mr. HARRISON. So far as I am concerned I think the internal revenue tax on alcohol where it is used in manufacturing, where you can not use denatured alcohol is disproportionate, but you can not touch that without cutting down the internal revenue from alcoholic drinks.

Dr. BAER. By putting on an increased tax, you make the manufacturer bear the burden of that tax. Take a 10-cent bottle, which is the size purchased by the average person. We sell a hundred gross to one gross of 25 cent. On a bottle of vanilla extract that would make a difference of 2 cents, and on a bottle of lemon extract probably 5 cents on a 10-cent bottle. Is it right that a little article like vanilla extract of which the average housekeeper will use from four to six bottles a month should carry that enormous tax?

Mr. HARRISON. So far as I am concerned, the proposed tax upon lemon oil was primarily imposed because lemon oil is also used in the manufacture of perfumes.

Dr. BAER. Very little. The amount that goes into perfumes is very small. The part that goes into a bottle of perfumery will not amount to 1 drop. We are not allowed to reduce the strength of the extract, and if we did the consumer would eventually pay for it, and if you would investigate the data which we have submitted to you we believe you will see the wisdom of eliminating these duties as applied to vanilla beans and the essential oils of cassia, lemon, lime, and anise.

The CHAIRMAN. The committee will consider your suggestions very carefully when they come to frame the new bill.

Hon. O. W. UNDERWOOD,

Chairman Committee on Ways and Means.

Sir: Supplementing the remarks of Dr. S. H. Baer on the subject of vanillin, and in order that the nature of this article may be thoroughly understood, I beg to advise that vanillin is the flavoring principle of the vanilla bean, or that which gives the desired flavor to the so-called vanilla extract.

The synthetic vanillin on the market is made from cloves and is identical in every respect with the vanillin in the vanilla bean.

Therefore, synthetic vanillin being a chemically pure product, when used in the manufacture of flavors makes a purer product than that made from the vanilla beans, by reason of the conditions under which the beans are gathered and cured in the tropical countries where they are grown. The term "pure extract of vanilla," as

PARAGRAPH 559—CRUDE DRUGS, ETC.

applied to extracts made from beans only, is the result of regulations issued by the Bureau of Chemistry, which prohibit that term being applied to flavors made from synthetic vanillin, although the latter is by far the purer product.

Respectfully,

JNO. F. QUEENY,
President Monarch Chemical Works, St. Louis.

St. Louis, Mo., January 30, 1913.

HON. OSCAR W. UNDERWOOD,
*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

GENTLEMEN: We thank your committee for the courtesy extended to us in the hearing on the proposed duty on vanilla beans and essential oils of cassia, lemon, lime, and anise.

We come simply as representatives of the trade to present our views upon this subject from the standpoint of the consumer and the manufacturer.

It is to the consumer that the manufacturer must look for the use of his products, and we are, therefore, more solicitous about the consumer's interests than those of the merchants who handle our goods. The ultimate consumer is the factor which keeps the wheels of industry in motion.

Your attention is called to four ways in which the proposed duties will affect the people as a whole:

First (and most important). It will raise the price to the American consumer, and add to the present high cost of living.

Second. It will curtail export business.

Third. It will put an excessive tax on flavoring extracts.

Fourth. It will not promote any industry in this country.

Raise prices.—Vanilla beans are practically used exclusively for the making of vanilla flavoring, and vanilla extract constitutes nearly 80 per cent of the extracts used by the housewife in the flavoring of puddings, cakes, desserts, ice cream, confectionery, etc., and, together with the other flavors, is a household necessity.

The addition of a duty of 50 cents per pound on vanilla beans would entail such an increase in the cost of pure vanilla extract as would necessitate the raising of the price to the consumer, either by charging more money for the goods or by reducing the size of the bottle.

The result of this would be to practically force the mass of consumers to the use of imitation flavors, and this we do not believe it is your desire to do.

Essential oils.—What we have just said in regard to the proposed duty on vanilla beans applies with equal force to the proposed duty of 20 per cent ad valorem on oils of cassia, lemon, lime, and anise.

Export trade.—We call your attention to the effect upon export trade of the placing of the proposed duties. From Government reports we note that our exports are increasing, but when analyzed they show that it is export of raw material that is increasing and not that of finished products, whereas our imports show the reverse condition.

The addition of these duties on vanilla beans and essential oils would practically cut off the American manufacturer of flavoring extracts from any participation whatever in the export trade. At this time the American manufacturer is sadly handicapped in his fight for a share of the flavoring extract business in the markets of the world, by reason of the internal-revenue tax levied on domestic alcohol used in the manufacture of these goods for export trade.

Foreign manufacturers of flavors do not have to pay any tax on the alcohol used in their manufacture when the goods are shipped abroad, whereas the American manufacturer starts with a tax of \$2.09 per gallon on domestic alcohol used, thus enabling foreign manufacturers to undersell him.

In this connection would say that there are now bills before Congress to provide for the rebate of the internal-revenue tax on domestic alcohol used in the manufacture of flavoring extracts and like products for export, but the addition of 50 cents per pound on vanilla beans, and 20 per cent as valorem on essential oils of cassia, lemon, lime, and anise would debar the American manufacturer from any participation in the export business, because, even if Congress relieved him of the internal-revenue tax on his export goods, the addition of the proposed duties would kill his chance of any considerable share of foreign business.

PARAGRAPH 559—CRUDE DRUGS, ETC.

It is needless to point out to you that if we can get our share of the export trade in extracts, it would amount to an enormous sum, which would benefit every class of industry in the United States allied with the extract trade, among whom we might mention manufacturers of bottles, cartons, labels, lumber, packers, and the farmer as well, because it would make a market for hundreds of thousands of additional bushels of grain.

The exportation of soda fountains and appliances, ice-cream machines, etc., is growing very rapidly, but the American shipments of flavoring extracts, soda-water flavors, etc., by reason of the taxes assessed against them, are not only not keeping pace, but are practically nil.

The rapidly growing use of flavoring extracts, soda-fountain supplies, confectionery, ice cream, etc., abroad opens a most inviting field to American enterprise and skill in furnishing flavors which enter into these things, and no handicap should be put upon the American manufacturer which would prevent him from securing his fair share of foreign trade, thus providing work for his countrymen, and a larger market for the products of the American farmer.

If the Government will give the flavoring-extract manufacturer the proper opportunity, and not so tax his products or the raw material which enters into their manufacture that he can not meet his foreign competitor on an even basis in the foreign markets, he will, within the next few years, dominate the export trade on this class of goods.

Excessive tax.—In the manufacture of vanilla extract at least one-half gallon of high-proof spirits is used, and you, of course, realize that the internal revenue tax on 1 gallon of proof spirits is \$1.10 of the \$1.35 we pay for a proof gallon of spirits, or a tax of \$2.09 of the \$2.60 we pay for the high proof. On the cost of a gallon of vanilla extract then the revenue tax on the spirits alone is 25 per cent of the cost of the product. This tax, of course, the consumer eventually pays.

A gallon of standard extract of lemon contains 111.8 fluid ounces of 190 proof alcohol (83 per cent absolute alcohol) which costs \$2.28, with 190 proof alcohol at \$2.60 per gallon.

A gallon of this extract contains 6.4 fluid ounces of oil of lemon (5 per cent by volume) which costs \$1.07 at \$3 per pound for oil of lemon (the present price).

This makes the total cost of raw material in a gallon of standard lemon extract \$3.35. Of this cost \$1.83 represents the internal-revenue tax on the alcohol used.

In other words, 54 per cent of the present cost of a gallon of lemon extract is tax.

Now, if you add a duty of 20 per cent ad valorem on the oil of lemon used to this, 61 per cent of the cost of the material will be tax, and this tax the consumer would have to pay.

We do not believe this further taxing of the consumer, thus adding to the present burden he bears, will commend itself to your good judgment.

There is no other industry in the United States, except tobacco and whisky, which pays the Government so large a proportionate tax as flavoring extracts.

Promote no industry.—The placing of these duties on these items will encourage no American industry, because no vanilla beans (except in an experimental way by the Department of Agriculture) have been or are being grown in this country in a commercial way. Labor as well as climatic conditions are an almost insuperable barrier.

None of the oils referred to (with the exception of oil of lemon and oil of orange) has ever been produced in this country, and can not be under existing climatic and labor conditions. Lemon and orange oils have been produced in an experimental way in California, but at such high cost that it would require a duty of \$2 or more per pound to in any way foster the industry in this country.

Then the demand for the American fruits themselves is so great as to take up the entire output in this country.

We are advised that the quality of lemon oil produced in California is not up to the standard, and does not meet the requirements of the Department of Agriculture in its citral content.

The American-grown fruits are not suited for the manufacture of these essential oils, and hence no American industries can be benefited by the imposition of the proposed duties.

We believe if you will investigate carefully the data herewith submitted, you will see the wisdom of eliminating these duties as applied to vanilla beans and essential oils of cassia, lemon, lime, and anise.

Very respectfully,

SAMUEL H. BAER,

*Vice President Flavoring Extract Association of United States,
Chairman Legislative Committee.*

PARAGRAPH 571—CANTALOUPE.

PARAGRAPH 560.

Eggs of birds, fish, and insects (except fish roe preserved for food purposes): Provided, however, That the importation of eggs of game birds or eggs of birds not used for food, except specimens for scientific collections, is prohibited: Provided further, That the importation of eggs of game birds for purposes of propagation is hereby authorized, under rules and regulations to be prescribed by the Secretary of the Treasury.

PARAGRAPH 561.

Emery ore and corundum.

PARAGRAPH 562.

Ergot.

PARAGRAPH 563.

Fans, common palm-leaf, plain and not ornamented or decorated in any manner, and palm leaf in its natural state, not colored, dyed, or otherwise advanced or manufactured.

PARAGRAPH 564.

Felt, adhesive, for sheathing vessels.

PARAGRAPH 565.

Fence posts of wood.

PARAGRAPH 566.

Fibrin, in all forms.

PARAGRAPH 567.

Fish, fresh, frozen, or packed in ice, caught in the Great Lakes or other fresh waters by citizens of the United States, and all other fish, the products of American fisheries.

PARAGRAPH 568.

Fish skins.

PARAGRAPH 569.

Flint, flints, and flint stones, unground.

PARAGRAPH 570.

Fossils.

PARAGRAPH 571.

Fruits or berries, green, ripe, or dried, and fruits in brine, not specially provided for in this section.

CANTALOUPE.

TESTIMONY OF J. L. SLATTERY, REPRESENTING JOHN NIX & CO., CHICAGO, ILL.

The witness was first duly sworn by the chairman.

Mr. SLATTERY. Mr. Chairman and members of the committee. I perhaps owe you an apology for appearing here to-day with a brief or an argument on the subject of cantaloupes on which there never has been a duty coming into this country, and on which there probably never will be a duty. The excuse I offer is that in one of the trade papers published the latter part of November a statement was made that an effort would be made at this meeting to have a duty placed upon these cantaloupes, otherwise I should not have taken up your valuable time and attention. I beg to advise you that I have filed a short brief, which I would ask permission to have printed, and I would state that the company, which I represent, John Nix & Co., of New York and Chicago, have found it necessary to cross the boundary line and to grow cantaloupes in Mexico, not because they desire to go outside of the United States, but because

PARAGRAPH 571—CANTALOUPE.

they were forced to do it. The conditions in the Imperial Valley, Cal., were such that they were unable to procure a supply of cantaloupes, and found it necessary to go across the border.

Mr. HAMMOND. Why was it necessary to do that?

Mr. SLATTERY. The combination of growers and shippers was such we were unable to secure cantaloupes for our home use. The company which I represent have been accustomed to handle cantaloupes from that section ever since they were grown about 9 years ago until last season. I myself went into the Imperial Valley to secure the cantaloupes, but was unable to get them, and found it necessary to make a contract with an American company, which owned the land in Mexico. We are growing the cantaloupes there, using American labor and American box shooks, American paper, and the only labor not American which is used in the cultivation of those cantaloupes in Mexico will be the ordinary farm labor in that country, but all of the skilled labor for picking, packing, and inspecting, and the other high priced labor is American, and brought into that country by ourselves. The food products they consume are all brought in from America. If there is a duty placed on cantaloupes we could not ship any into this country. It would not increase the revenue at all; it would simply keep them out, and that I believe would not be desired, as the conditions there are not such that this country would care to foster them.

Mr. PALMER. Is that the California Fruit Exchange?

Mr. SLATTERY. No; this is another exchange, it is called the "Cantaloupe Exchange."

Mr. DIXON. Where is it located?

Mr. SLATTERY. The business is done in the Imperial Valley, Cal. The exchange is composed of persons located in different localities, who have control of the majority of the acreage in that district. By the way, I forgot to state that the cantaloupes grown in the Imperial Valley are grown very largely by Japanese labor.

Mr. DIXON. Those cantaloupes come to the Middle West, do they not?

Mr. SLATTERY. They come to all parts of the United States; in fact, the most of them are being marketed in the East, in New York, Boston, and the other large cities. Their cantaloupes are produced during the month of June, principally, and partly during July when prices are very high and there is no competition; that is, they do not compete with any of the cantaloupes grown in the Middle West, or in any other section, perhaps, than in the Imperial Valley, Cal.

Mr. PALMER. How much do you get for cantaloupes that sell at a hotel for 65 cents for a half portion?

Mr. SLATTERY. Mr. Chairman, the price of the cantaloupes varies very much.

Mr. DIXON. He does not handle those. Those come from Indiana.

Mr. SLATTERY. Some very good ones come from Indiana, occasionally. In the early part of the season cantaloupes from the Imperial Valley, Cal., and from other districts have been known to sell for as high as \$5 to \$7 a crate for a standard crate of 45 melons.

Mr. PALMER. That would be about 15 cents apiece?

Mr. SLATTERY. Well, between 10 and 15 cents. I have known of cases where a single crate would be received by express and sold to

PARAGRAPH 571—CANTALOUPE.

a fashionable club for a price probably as high as \$25—not because it was worth it, but because it was the only one to be had, and they would pay that price to get it. The average price, however, per crate for cantaloupes from that district is probably not to exceed \$3 on the market where it is sold with a freight rate of possibly \$1 to \$1.20 against it.

Mr. NEEDHAM. How much does the grower get?

Mr. SLATTERY. It depends very much on the conditions some people handle the goods on as to how much they will receive.

I found on my trip to the Imperial Valley last summer that I had to pay \$2.50 a crate f. o. b. Imperial Valley in order to get any cantaloupes at all, and I found also later on in the season that some of the growers did not receive anything. I did not happen to handle those.

Mr. DIXON. Do you know anything about any combination between the growers and the sellers in the Middle West?

Mr. SLATTERY. Between whom?

Mr. DIXON. Between the growers of the cantaloupes and the dealers in the Middle West. What you refer to is California?

Mr. SLATTERY. I do not know of any combination of the growers. I have never heard of any that I can recollect at the present time. They have associations in all sections where cantaloupes are grown. Such associations are a necessity in order to enable the individuals to ship collectively in carloads. That is an absolute necessity in order to get the advantage of the carload freight rate. Each individual grower could not ship alone. They have combinations of that character in all sections, practically, where cantaloupes are grown.

Mr. NEEDHAM. Do they have combinations in Indiana and associations in Indiana, the same as in California?

Mr. SLATTERY. I do not think they have them the same as in California; there are not so many grown there nor are they of the same character, and, besides, Indiana is a section where cantaloupes are grown under different conditions than in California. The California cantaloupes are grown entirely under irrigation, and a good cantaloupe can not be raised in a section where it rains during the time the cantaloupe is maturing, and in Indiana, unfortunately, they frequently get too much rain. If they have a dry season they have very good cantaloupes.

JOHN NIX & Co.,
WHOLESALE FRUIT AND PRODUCE COMMISSION MERCHANTS,
220-222 North State Street, Chicago, January 17, 1913.

To the COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: The undersigned, James L. Slattery, respectfully states unto your honorable committee that he represents John Nix & Co., of New York and Chicago.

That they are shippers and receivers of cantaloupes.

That they have contracted to handle cantaloupes grown at Bataques, Lower California, which is situated across the border line from the United States, in Mexico; that the cantaloupes are grown by an American company on land bought and improved by American capital, and cultivated under American supervision, using American skilled labor, and American-made packages and supplies, and the profits come to America.

That he has observed in a produce trade paper recently, to wit, the Kansas City Packer, of November 29, 1912, a notice that an effort would be made to have a duty placed on cantaloupes from Mexico coming into the United States.

PARAGRAPH 571—CANTALOUPE.

That there is no duty on cantaloupes under the present tariff, nor to the best of my information has there ever been any duty on them heretofore.

I respectfully call to the attention of your honorable committee that if a duty were levied upon cantaloupes coming into the United States from Mexico it would not increase the revenue of the United States, but would prohibit the importation of these cantaloupes and thus be a great injustice to the American company and capital engaged in growing these cantaloupes as well as to the consumer.

That a duty of this character would tend to increase the high cost of living, notwithstanding that the public are clamoring for a reduction.

That a duty on cantaloupes would be in violation of the platform adopted by the political party which was successful at the last general election, and would therefore not meet with the approval of a vast majority of the citizens of these United States.

That it is a matter of general information that the cantaloupe industry in the Imperial Valley, Cal., is controlled by an organization or combination, and that the duty on cantaloupes from Mexico into the United States would tend to foster a monopoly and encourage the creation of organizations in restraint of trade engaged in interstate commerce.

For these and many other reasons which might be cited, your humble petitioner begs that Schedule G of tariff act of 1909 will not be amended so as to impose a duty on cantaloupes coming into the United States.

Respectfully submitted.

JAMES L. SLATTERY.

PARAGRAPH 572.

Fruit plants, tropical and semitropical, for the purpose of propagation or cultivation.

PARAGRAPH 573.

Furs, undressed.

PARAGRAPH 574.

Fur skin of all kinds not dressed in any manner and not specially provided for in this section.

PARAGRAPH 575.

Gambier.

PARAGRAPH 576.

Glass enamel, white, for watch and clock dials.

PARAGRAPH 577.

Glass plates or disks, rough-cut or unwrought, for use in the manufacture of optical instruments, spectacles, and eyeglasses, and suitable only for such use: *Provided, however,* That such disks exceeding eight inches in diameter may be polished sufficiently to enable the character of the glass to be determined.

PARAGRAPH 578.

Grasses and fibers: Istle or Tampico fiber, jute, jute butts, manila, sisal grass, sunn, and all other textile grasses or fibrous vegetable substances, not dressed or manufactured in any manner, and not specially provided for in this section.

PARAGRAPH 579.

Gold beaters' molds and gold beaters' skins.

PARAGRAPH 580—GREASES AND OILS.**PARAGRAPH 580.**

Grease, fats, vegetable tallow, and oils (excepting fish oils), such as are commonly used in soap making or in wire drawing, or for stuffing or dressing leather, and which are fit only for such uses, and not specially provided for in this section.

GREASES AND OILS.**TESTIMONY OF C. P. GULICK, TREASURER OF THE NATIONAL RED OIL & SOAP CO., OF NEWARK, N. J.**

The witness was duly sworn by the chairman.

Mr. GULICK. I have already submitted a brief on the subject, gentlemen, but I think there may be some further explanations necessary. I invite your attention to paragraph 580 of the free list:

Grease, fats, vegetable tallow, and oils (excepting fish oils), such as are commonly used in soap making or in wire drawing, or for stuffing or dressing leather, and which are fit only for such uses, and not specially provided for in this section.

We are manufacturers of sulphonated oils of all kinds, but are particularly interested in sulphonated oils for the leather trade. During the past few years the demand for sulphonated oils has increased several fold because of their peculiar adaptability to the tanning industry. The best oils for tanning purposes are those made from cod, fish, etc. There is practically an unlimited market for these sulphonated oils, but the American manufacturer is working under a most severe handicap in the form of an improper tariff. At the present time, under paragraph 40 of the act of 1909, we are obliged to pay a duty of 8 cents per gallon on all fish oils; while the sulphonated fish oils are coming into our ports in large quantities under the free list, paragraph 580.

The largest importations are coming from England where there is no tax levied on these raw oils. England moreover enjoys the benefits of cheaper labor and chemicals than we do, although it is not our intention to make a point of this. There are a large number of manufacturers in the United States who are struggling to meet this foreign competition, but our high duty on these raw oils practically guarantees the business to our foreign competitors. I can not believe it is the intention of our Government to foster such a manifestly unfair situation as this.

On that point I wish to say that the sulphonated oil business is conducted along highly competitive lines. There is a large number of manufacturers in the United States who are making and selling sulphonated oils. The prices, in view of the duty on sulphonated oils, could not be raised to the purchaser, for the simple reason that sulphonated oil must bear a certain relation to the raw oil of which it is made. Furthermore, competition would keep the level down still further, and there is no possibility of a monopoly being created. We believe that it was not the intention of the Payne Act of 1909 to protect this situation: in other words, to protect the foreign manufacturer to the disadvantage of the American manufacturer.

During the year 1911 the Government made an unsuccessful attempt to levy duty on one of these imported products through the customs appraiser at Boston. The Government sought to levy a 30 per cent ad valorem duty under paragraph 32, as a grease "used in

PARAGRAPH 580—GREASES AND OILS.

processes of softening, dyeing, and finishing." The importer, however, maintained his case and continued to bring the commodity in free under paragraph 580. The appraiser at Boston, after investigating the product, reported as follows:

"The analysis of the substance shows it to be a sulphonated oil containing, about, moisture 17 per cent, mineral oil 27 per cent, free fatty acids 45 per cent, degrass former 5 per cent, and sulphuric oxide 3 per cent. The odor indicates the presence of cod oil, and would point to a sulphonated cod or fish oil."

This and similar products made abroad compete very seriously with American manufacturers of sulphonated cod and fish oils, and the Government is rightly entitled to any revenue that might accrue from import tax on such commodities.

Here is a point I would like to change in my brief. I state in the brief that during the year 1911, but I mean in one year starting at a point in 1911 and ending in 1912. We have estimated that one of these products alone was imported during the year 1911 to the extent of about 20,000 barrels. Averaging about 400 pounds per barrel, this would mean a total of 8,000,000 pounds, which should have borne a duty correlative with that on raw cod, or fish oils, which, expressed on a pound basis of 1 cent per pound, would have resulted in a revenue to the Government of \$80,000. As these oils weigh approximately 8 pounds to the gallon, but are always sold on a basis of pounds, we would suggest that a specific duty of 1 cent per pound be placed on them, which would make their duty commensurate with that on cod, whale, and other fish oils.

We are not against free trade. In fact, free trade would be entirely satisfactory as far as our business is concerned, but when our tariff law discriminates so flagrantly against the American manufacturers in favor of our foreign competitors, we believe we are entirely justified in asking for this consideration, which we now pray for at your hands.

In that connection I want to say this—that we are not asking for protection. I do not want to be misunderstood. But we are asking that our Government shall not protect the English, the French, or the German manufacturer. We are not asking for a duty on our finished product to protect us against any conditions of labor or conditions of improved manufacture abroad. We are perfectly willing to cope with that problem. We are simply asking that a tariff be put on sulphonated oils commensurate with that on the raw oils which now bear a tariff—

Mr. FORDNEY (interposing). Why do you want that, then, if you do not want protection?

Mr. GULICK. I would just as leave have free trade absolutely, but my raw materials now bear a specific duty of 8 cents per gallon.

Mr. HILL. And you do not want to start with that handicap?

Mr. GULICK. No, sir. I am perfectly willing to meet the proposition on a free trade basis.

Mr. FORDNEY. Do I understand there is a duty on your raw material?

Mr. GULICK. Yes, sir; a specific duty of 8 cents per gallon.

Mr. FORDNEY. And free trade on your finished product?

Mr. GULICK. Yes, sir; absolutely. That is my position. I do not believe that it was the intention of the act of 1909 to bring about such

PARAGRAPH 580—GREASES AND OILS.

a condition as this, but that came about through a very simple error; the fact that these oils have come into almost universal use since that act was adopted changes the entire complexion of the case.

Mr. HILL. There was really no such oil made then?

Mr. GULICK. It was being exploited at that time simply in an experimental way. From a revenue standpoint the present law has the tendency of diverting raw oils to foreign countries where there are no duties in force, where they are then manufactured into finished products and shipped to the United States free of duty, thereby paying no revenue to our Government and seriously damaging our home industry. I beg to submit to you gentlemen on that point that oil can be taken to England, where there is no duty on it, manufactured into a finished product, and simply because the form of the oil is changed, it can be shipped into the United States and evade the duty. It absolutely defeats the Democratic principle of revenue, because the raw material, instead of coming into this country and paying a duty, goes to England, and it defeats the Republican principle of protection. Therefore, I submit, we are entitled to consideration on that account. I have a cablegram in my hands from England, dated January 25, quoting the price on cod oil in England. The market value there to-day is 8 cents per gallon lower than the American market price, and that gives the English manufacturers an advantage of 8 cents per gallon, or on a pound basis 1 cent per pound. Now, we ask for a specific duty on a pound basis on this commodity for the simple reason that it is sold that way. We would, therefore, ask that a separate paragraph be drafted into the proposed tariff bill providing that "All sulphonated, soluble, or emulsifiable oils and greases, compounds or mixtures of same, not specially provided for in this act, 1 cent per pound." My reason for asking that is because of the clause providing for a duty, an ad valorem duty, on turkey red oils and alizarine assistants, which are related to this class of goods, although manufactured from a different base. We believe a specific tax would be preferable, as it would then neutralize the specific tax on seal, herring, whale, and other fish oils. It would also simplify the appraisement, as it is very difficult to recognize the fundamental raw oils in a sulphonated oil, except by a very careful chemical analysis.

In closing I beg to say that we would be very willing to have the duty remain off these products, providing our raw oils, now taxed under paragraph 40, were allowed free entry, but at all events we trust you will give this matter the consideration it deserves, and at least levy a tax commensurate with that on raw materials.

Mr. HARRISON. What sort of an ad valorem equivalent would 1 cent a pound be on the soluble oils and greases?

Mr. GULICK. The ad valorem equivalent?

Mr. HARRISON. Yes. It is pretty hard to answer, I suppose, but the rate we selected was 15 per cent for our basket clause.

Mr. GULICK. You are speaking of the clause relating to sulphonated, soluble or emulsifiable oils, etc.?

Mr. HARRISON. That is one of them, but there is a clause covering those not provided for. Would it raise the duty to adopt the rate you propose? It is pretty hard to answer, I suppose.

PARAGRAPH 580—GREASES AND OILS.

Mr. GULICK. That is a hard question to answer. I am speaking particularly of fish oil, which ranges very much in price, that is, from menhaden oil up to refined cod oil or refined whale oil.

Mr. HARRISON. That was why it was decided to stick to an ad valorem duty. If you will give us the specific names of the oils which are not now provided for by name we might be able to accede to your request, but it would not be safe to put a specific duty into the catch-all clause, because you can not tell how it is going to work out as to the bulk of the articles.

Mr. GULICK. Would not the words "all sulphonated, soluble, or emulsifiable oils and greases," etc., cover it? I would be willing, and I think it might solve the situation, to substitute the words "soluble or emulsifiable fish oils," and we can let the term "fish" include such oils as whale oil, although the whale is really a mammal and not a fish, and cod oil which is usually not classed in the same class as fish oil.

The point I am making is this: That we want a duty of 8 cents per gallon on sulphonated oils which would be commensurate with the duty on those now taxed under paragraph 40. I think we are entitled to that. As I say, we are not against free trade, but we want free trade on this whole proposition. Moreover, as I said before, it would simplify the appraisement, as it is very difficult to recognize the fundamental raw oils in a sulphonated oil except by very careful chemical analysis, and then we have very grave doubts whether it can be successfully done, for the simple reason that there are chemical changes by which it is made difficult to recognize the oil; its general characteristics are recognizable, it could be recognized as fish oil, but not as a specific fish oil.

Paragraph 32 of the tariff act of 1909 provides in part—

and all soluble greases used in processes of softening, dyeing, or finishing, not specially provided for in this section, thirty per centum ad valorem.

H. R. 20182, paragraph 50, provides in part—

and all soluble greases used in processes of softening, dyeing, or finishing, not specially provided for in this act or in the first section of the act cited for amendment, fifteen per centum ad valorem.

We beg to submit that both these paragraphs are not sufficiently clear, nor are they complete enough to cover the situation to the full intent of the law. We suggest that the wording be changed to read "All soluble or emulsifiable oils and greases."

The words "soluble" and "emulsifiable" are often incorrectly used interchangeably. Some alizarin assistants that are covered by these paragraphs and coming in as "soluble" are in reality emulsifiable. A solution is obtained when the commodity dissolves in water, giving a clear liquid. Sugar in water is a concrete example. An emulsion is obtained when the commodity is suspended in water giving an opaque liquid. Milk is a concrete example of an emulsion. Both soluble and emulsifiable alizarin assistants are required by the trade, and the law should specifically state "soluble and emulsifiable."

The difference between oils and greases is principally one of temperature. Fats that are oils at high temperatures are greases at low temperatures and vice versa. The wording of the law should therefore include "greases and oils."

PARAGRAPH 581—BASIC SLAG.

We also concur heartily in the requests made by several of our esteemed competitors in regard to having the duties on oils of this class commensurate with the duties on raw materials. Several briefs have already been submitted calling your attention to this matter in the case of Turkey red oil, and asking you to remember its correlation to castor oil. As Turkey red oils, alizarin assistants, soluble oils, etc., are all sulphonated oils, we recommend the use of the word "sulphonated" in connection with oils mentioned in these paragraphs. This term is perfectly proper and would assist in defining more clearly the intent of the law.

PARAGRAPH 581.

Guano, manures, and all substances used only for manure, including basic slag, ground or unground, and calcium cyanamid or lime nitrogen.

BASIC SLAG.

51 CHAMBERS STREET,
New York, March 15, 1912.

Hon. A. F. LEVER, *Washington, D. C.*

DEAR SIR: I am very much afraid lest in the revision of the tariff which is now being undertaken by Congress that, through an error or oversight, ground basic slag phosphate may be again placed upon the dutiable list. Largely through your instrumentality this article was placed upon the free list in the Payne bill and there it should remain, as it is an article of increasing popularity among the farmers in this country, to whose search for inexpensive fertilizer materials no bar should be put by Congress in the shape of an import tax or otherwise.

I trust I am not presuming in relying upon you to let me know if there should be any attempt to place this article on the dutiable list.

For your ready reference, I would say that the basic slag is mentioned in the tariff act of 1909, H. R. 1438, under the free list in section 581.

Section 581 in the interest of all the farmers of this country should remain entire, just as it is, upon the free list.

Respectfully, yours,

M. H. GRACE, *President.*

PARAGRAPH 582.

Gutta-percha, crude.

PARAGRAPH 583.

Hair of horse, cattle, and other animals, cleaned or uncleaned, drawn or undrawn, but unmanufactured, not specially provided for in this section; and human hair, raw, uncleaned, and not drawn.

PARAGRAPH 584.

Hide cuttings, raw, with or without hair, and all other glue stock.

PARAGRAPH 585.

Hide rope.

PARAGRAPH 586.

Hones and whetstones.

PARAGRAPH 587.

Hoofs, unmanufactured.

PARAGRAPH 588.

Hop roots for cultivation.

PARAGRAPH 589.

Horns and parts of, including horn strips and tips, unmanufactured.

PARAGRAPH 590.

Ice.

PARAGRAPH 591—RUBBER.

PARAGRAPH 591.

India rubber, crude, and milk of, and scrap or refuse india rubber, fit only for remanufacture, and which has been worn out by use.

RUBBER.

TESTIMONY OF HERMAN MUEHLSTEIN, NEW YORK, N. Y.

The witness was duly sworn by the chairman.

Mr. MUEHLSTEIN. Mr. Chairman, I represent the American dealers in waste rubber. We desire a slight change in the wording of paragraph 591. It is a very simple one, and I would not like to take up the valuable time of your committee reading. Therefore I beg leave to file this brief which we have prepared.

BRIEF OF SCRAP-RUBBER DEALERS, COVERING PARAGRAPH 591.

NEW YORK, *January 10, 1913.*

COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

[In re suggested change of language of paragraph 591 of the act of 1909 as it affects scrap rubber.]

GENTLEMEN: This memorandum is addressed in behalf of the dealers and users of waste or scrap rubber; that is, discarded rubber tires, shoes, hose, factory waste, and like articles. This old scrap rubber is valuable only for the purpose of being reclaimed. The paragraph reads:

"India rubber, crude, and milk of, and scrap or refuse india rubber, fit only for remanufacture, and which has been worn out by use."

We desire a change by eliminating the words "which has been worn out by use." Under the decisions of the courts mutilated rubber tires, shoes, toys, and rubber waste from factories, such as useless ends and clippings, are all dutiable as waste not specially provided for, at 10 per cent, because "not worn out by use." The exhibits filed herewith illustrate this class of rubber.

This class of rubber scrap is not available for any purpose other than rubber scrap which has been worn out by use. It frequently occurs in importing scrap rubber that it may be partially composed of rubber scrap not worn out by use, such as heretofore described, and although containing a very small proportionate share, the whole entry has been assessed at 10 per cent.

Reclaimed rubber is produced by a somewhat elaborate process, consisting of grinding up scrap rubber and burning out with sulphuric acid or other chemicals the cloth fabric, leaving substantially a crude rubber product, greatly diminished, of course, in both commercial and manufacturing value. The process is described in Michelin Tire Co., against the United States, T. D. 31544, which decided that reclaimed rubber was entitled to free entry under paragraph 591, so that we have the strange situation of a raw material being assessed at 10 per cent and the only product that the raw material is capable of producing is admitted free.

It is difficult to comprehend why the words "which has been worn out by use" were ever employed. It certainly never could have been the intention of Congress to really differentiate between any kind of scrap rubber "fit only for remanufacture." The words "fit only for remanufacture" have a plain meaning, and the most casual inspection would indicate whether or not the scrap rubber was available for any other purpose. Waste or scrap rubber should be separated from the paragraph providing for india or crude rubber.

We therefore suggest that the language covering the entry of scrap rubber be as follows:

"Scrap or refuse or waste india rubber fit only for remanufacture," and that it be retained in the free list.

Or, in the alternative, if the committee do not think a separate paragraph necessary, that from the present language of paragraph 591 the words "and which has been worn out by use" be eliminated, so that the paragraph would read:

PARAGRAPH 591—RUBBER.

"India rubber, crude, and milk of, and scrap or refuse india rubber, fit only for remanufacture."

Respectfully submitted.

WASTE RUBBER DEALERS ASSOCIATION,
HARRY CUMMINGS, *Vice President*.

The CHAIRMAN. Was the duty raised in the last bill on that?

Mr. MUEHLSTEIN. No; it remained unchanged.

The CHAIRMAN. Do you want a reduction or a raise?

Mr. MUEHLSTEIN. We just want a slight change in the wording and in the account of waste which I will read here. The present paragraph 591 reads as follows:

India rubber, crude, and milk of, and scrap or refuse india rubber, fit only for remanufacture, and which has been worn out by use.

We desire the elimination of the words "which has been worn out by use," for the reason that if shipments of waste rubber which now come in having the same value contain 2 or 3 per cent of new rubber the entire shipment is put in as 10 per cent, as not specifically provided for. Now, we contend that that is an injustice and prohibits the importation of waste rubber of all kinds.

The CHAIRMAN. You think that that prohibits it because the rate in that clause is so high that waste rubber can not come in? Is that your idea?

Mr. MUEHLSTEIN. If the waste rubber is in the free list, and it is the intention to put it in the free list, all right; but a lot of waste rubber may come in which contains a very slight percentage of new rubber, which is not provided for; therefore, under the ruling of the Government, the entire shipment is thrown in at 10 per cent.

The CHAIRMAN. That is, it goes in the tax schedule?

Mr. MUEHLSTEIN. Yes sir.

Mr. HILL. This phrase has been in here from time immemorial, has it not, and in the meantime the entire rubber industry has changed in character?

Mr. MUEHLSTEIN. Yes.

Mr. HILL. Is there any reason at all why the article designated as scrap mentioned here, by the terms of the law, from new manufactures, may not go in there as scrap?

Mr. MUEHLSTEIN. There is no reason, because the new waste rubber is not used in any different way and for any different purpose than the old waste.

Mr. HILL. Now, another question and that is all. In the process of vulcanizing a good many rubber products are spoiled, are they not, and then kept and made into scrap; that is, not worn out by use, but cut up the same as old shoes are cut up?

Mr. MUEHLSTEIN. Absolutely.

PARAGRAPH 591—RUBBER.

BRIEF OF THE RUBBER CLUB OF AMERICA, NEW YORK, N. Y.

NEW YORK, March 28, 1912.

Hon. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: In view of my understanding that there is heavy pressure being exerted in Congress to lower the existing tariff on wool and that it is proposed to levy a tax of 5 cents a pound on all crude rubber imported into the United States, in order to meet an attendant deficit in revenue, approximately amounting to \$21,000,000, I herewith submit data, most of which is taken from official statistics furnished by the Government, and earnestly hope that it will be given careful consideration by you and your committee in determining the expediency of this proposed legislation.

I feel that although this is only a brief and imperfect statement of existing conditions of the industry, I show conclusively that the ultimate effect of the proposed tax would be to shift the burden from one commodity to another without meeting the deficit, without being of the slightest benefit to the general public, but, on the contrary, imposing a direct loss on the public as well as upon the manufacturers and all persons engaged and employed in the industry.

In the first place, there was imported into the United States for the fiscal year July 1, 1910, to June 30, 1911, 145,743,820 pounds of crude rubber (pontianak, gutta-percha, and balata included, 26,948,000 scraps excluded) the value of the 145,743,820 pounds of crude rubber being \$90,576,643 and the value of the 26,948,000 scraps being \$2,334,870.

United States official india-rubber statistics.

ARRIVAL OF ALL GRADES OF CRUDE RUBBER IN UNITED STATES, FISCAL YEARS 1905-1911.

	Rubber.		Pontianak.	
	Pounds.	Value.	Pounds.	Value.
1905-6.....	57,844,345	\$45,114,450	21,390,116	\$733,074
1906-7.....	76,963,838	58,919,981	28,437,660	1,085,098
1907-8.....	62,233,160	36,613,185	22,803,303	1,038,776
1908-9.....	88,359,895	61,709,723	24,826,296	852,372
1909-10.....	101,044,681	101,078,825	52,392,444	2,419,223
1910-11.....	91,795,782	86,687,760	51,420,812	2,872,633

	Balata.		Gutta-percha.	
	Pounds.	Value.	Pounds.	Value.
1905-6.....	374,220	\$152,689	500,700	\$188,161
1906-7.....	799,029	305,041	546,890	201,339
1907-8.....	584,582	276,756	188,610	100,305
1908-9.....	1,157,018	522,872	255,559	82,136
1909-10.....	339,003	196,878	784,501	167,873
1910-11.....	878,305	624,702	1,648,921	390,548

TOTAL ARRIVAL OF ALL GRADES OF CRUDE RUBBER IN UNITED STATES, FISCAL YEARS 1905-1911.

	Pounds.	Value.
1905-6.....	80,109,451	\$46,188,374
1906-7.....	106,747,417	60,511,459
1907-8.....	85,809,655	38,030,022
1908-9.....	114,598,768	63,167,103
1909-10.....	154,620,629	103,862,799
1910-11.....	145,743,820	90,575,843

PARAGRAPH 591—RUBBER.

United States official india-rubber statistics—Continued.

AVERAGE VALUE PER POUND, 1910-11.

	Pounds.	Value.	Average per pound.
Rubber.....	72,046,260	\$76,244,603	\$1.0582
Guayule.....	19,749,522	10,443,157	.5022
Pontianak.....	51,420,812	2,872,633	.0558
Balata.....	878,305	624,702	.7112
Gutta-percha.....	1,648,921	390,548	.2374
Total.....	145,743,820	90,575,643	.6282

A tax of 5 cents a pound on all grades of rubber based on the importation figures 1910-11 would net only \$7,287,191.

Examine the average value per pound figures 1910-11 and it will be seen that there are material differences in value between all grades of crude rubber, as follows:

Rubber.....	\$1.0582
Guayule.....	.5022
Pontianak.....	.0558
Balata.....	.7112
Gutta-percha.....	.2374

Pontianak is a gum extracted from a tree grown in the East Indies, largely in Borneo, Sumatra, and the Straits Settlements. The tree is tapped in the same way as crude rubber is tapped, the milk flowing very freely. It has been and is now sold to rubber manufacturing concerns largely as an adulterant, being used in connection with higher grades of crude rubber more as a filler than anything else. In recent years, however, manufacturers in this country, as well as some concerns in the East, have extracted the rubber content of this gum, which amounts to about 8 per cent of its total weight. To this extent pontianak, if taxed at 5 cents per pound, would virtually be paying a tax of 60 cents per pound. Pontianak has been largely used as a filler in manufactured articles of public necessity, such as boots, shoes, rubber clothing, druggist's sundries; and mechanical rubber goods, such as belting, packing, rubber tiling, and other articles which are in general use, and it can not well be substituted by any other article which has rubber for its base. There being no substitute for pontianak at anything like its primal cost to manufacturers, a tax upon it would mean an increased cost to the public for all articles of necessity in which rubber is the base. These very articles in which it is used, such as boots, shoes, rubber clothing, druggist's sundries, and mechanical rubber goods and the like, are largely manufactured in England, Belgium, France, and Germany, where there is no tax on crude rubber.

The excess of wage hire in this country over that of England, Belgium, France, and Germany, coupled with a tax on pontianak, would mean that we could no longer compete in those countries with the manufacturers of these classes of merchandise. This export industry is but an infant, but it is growing to enormous proportions under our improved methods of manufacture, and every year shows an increased sale in these goods in these foreign countries. Pontianak costs now about 5 cents. Add a 5-cent a pound duty and you double the cost of raw material. The industries in this country using pontianak could not stand this sudden increase and in consequence would be driven out of business and their export trade would be entirely demolished.

It also follows when we consider 51,420,812 pounds of pontianak is annually imported and which would be driven out of our markets by the imposition of such tax that the total revenue from all importations would be one-third less. Furthermore, importations of all other grades of rubber would naturally show a falling off. As has been previously shown, pontianak is used as a filler to these other grades of rubber and with the practical elimination of pontianak from our markets the demand for all other grades of rubber would be materially lessened.

I now give you the figures on our export trade for the years 1909, 1910, and 1911, as shown in the Daily Consular Report, March 13, 1912:

From an average of \$6,000,000 for 1905-1908, the average of the two years 1909-1911 shows an increase of about 50 per cent. Thus, we have entered upon a period of great export activity. This is further illustrated by the separate returns of our trade with the United Kingdom, Canada, and Germany, as follows:

PARAGRAPH 591—RUBBER.

Exports of rubber goods.

Articles.	1909		1910		1911	
Scraps and old.....pounds..	5,250,837	\$519,418	6,086,733	\$568,136	\$7,403,781	\$751,124
Reclaimed.....do.....	3,556,142	487,675	4,258,101	652,233	5,410,656	847,335
Belting, hose and packing.....		1,800,300		2,056,944		2,276,511
Boots and shoes.....pairs.....	3,150,294	1,653,466	4,157,693	2,266,137	2,886,965	1,686,092
Tires:						
For automobiles.....				839,930		2,458,177
All other.....				285,795		561,330
All other manufacturers of.....		4,413,626		4,555,761		4,120,633
Total.....		8,874,485		11,224,936		12,701,202

To—	1908-9	1909-10	1910-11
United Kingdom.....	\$1,761,730	\$2,798,578	\$3,165,246
Canada.....	953,897	1,565,904	1,861,861
Germany.....	534,505	713,707	711,831
Aggregate of three countries.....	3,250,132	5,078,189	5,738,938

Thus the average rate of increase in the aggregate exports to all countries is more than reflected in the development of trade with these principal outlets, which, in their combined form, take about one-half of the total exports of rubber manufacturers. In the United Kingdom and Germany we are selling our rubber goods side by side with the rubber goods of similar kinds made by the manufacturers of those countries. Those countries have no duty on the raw material. We have been giving the consumer better-made goods at the same price than the manufacturers of those countries are selling their articles.

We can not compete with them if our manufacturers have to pay this tax on rubber and their manufacturers do not. Manufacturers of all kinds of rubber goods require skilled labor, receiving in this country a high rate of compensation. Therefore the result will necessarily follow that foreign manufacturers who employ cheap skilled labor and pay no tax on the raw materials can send their manufactured goods into our market, even paying our duty thereon, and compete with our manufacturers. Indeed, if this were not so, we would not be building up a rapidly increasing export business and be driving out of our markets rubber goods made in foreign countries that were at one time prevalent here. The amount of capital that has been invested in these new industries, the infinite care and labor that has been expended in building up this large export trade, which adds its help to throwing a balance of trade to our country, the large number of laboring people dependent for their livelihood on these industries, are all threatened by this proposed imposition of tax.

In the next place, the enormous increase in the consumption of rubber is a change which may be officially noticed. The rubber industry throughout the entire country has grown tremendously, as evidenced by the great quantities of manufactured articles. It must also be officially noticed that crude rubber is not a product of the United States of America or of any of its outlying dependencies. The world has annually consumed over 65,000 tons of rubber for many years past. Of this, as has been shown, the United States for the fiscal year ending June 30, 1911, consumed 145,743,820 pounds exclusive of 26,948,000 scraps. Naturally the inquiry arises, what becomes of this huge quantity and into what articles is the raw product made? Consider for a moment the many electrical and surgical appliances in which rubber plays an essential part. Consider the part that it plays in the means of transport alone. Consider our dependence on it for articles of outdoor sports, travel, hygiene, and business, and you will conclude that we have a substance without which the progress of civilization would have been materially checked. Reflect on the stability and international character of the businesses already established to promote the use of rubber. It may be said that the articles manufactured in the United States into which rubber enters go throughout the entire world. There is another consideration which further demonstrates the hold the rubber industry has on commerce generally. Progress in many mechanical, surgical, physical, and chemical industries is largely dependent upon the use of the raw product. While it can not be disputed that other industries are dependent on the use of rubber, the rubber industry in turn is dependent on still other industries. Rubber alone would be of very little use; it is the base

PARAGRAPH 591—RUBBER.

only. Many oils, minerals, etc., produced in this country are used in the manufacture of rubber goods. Rubber manufacture is very largely dependent upon these substances, so that if the industry was suddenly seriously affected by legislation there would be confusion in the linseed, cottonseed, and castor-oil markets. Merchants dealing with such dissimilar substances as wax, naphtha, sulphur, talc, turpentine, and even copper and cotton would also be affected by any radical change in the rubber industry.

Of all grades of crude rubber, approximately 25 per cent thereof is devoted to the manufacture of mechanical goods, such as rubber hose, packing, and the like, 30 per cent for buggy, truck, and automobile tires, 30 per cent for rubber footwear, rubber clothing, and the like, and 15 per cent for druggists' sundries, surgical goods, etc. Thus 80 to 85 per cent of crude rubber is used in the manufacture of articles of utility, and any tax imposed falls not on luxuries but on necessities.

There are 275 rubber factories in the United States, divided as follows: Massachusetts, 55; New Jersey, 58; Pennsylvania, 14; Washington, 1; New Hampshire, 1; Rhode Island, 10; Ohio, 35; California, 3; New York, 49; Connecticut, 17; Missouri, 2; Illinois, 9; Michigan, 2; Indiana, 2; Delaware, 1; Minnesota, 1; Wisconsin, 4; South Carolina, 1; Oregon, 1.

The Thirteenth Census of the United States shows that in 1909, 57,487 people were employed and engaged in the manufacture of rubber goods industry; that salaried employees were paid \$8,205,000; that wages paid were \$25,620,000; that cost of materials was \$126,274,000, and that the total value of products was the sum of \$202,886,000. These figures, however, while showing a very large industry affected by proposed legislation, by no manner are representative of the situation at the present time. The development of the rubber industry from the point of consumption alone is apparent to every observer. New stores where rubber goods of different kinds are sold are daily coming into existence. New kinds of goods where rubber is used are daily coming into consumption. The consumption of these goods is so different and so much larger to-day that the figures of two years ago are decidedly misleading. In the last two years the strides in this business have been enormous. My own judgment is that instead of 57,500 there is nearer 90,000 people employed; that instead of the salaries of salaried employees being \$8,125,000 it is nearer \$12,000,000; that instead of the wages being about \$25,500,000 it is more than double that now. These figures, however, are but a surmise, and they are the best that I can submit. Accurate figures can not be given at this time. These are, however, but infant industries groping their way to a safe basis, interference with which by the imposition of a tax hitherto unimposed is calculated to be, if not disastrous, disconcerting, especially as you would, by imposing a tax on raw material used in these industries, place in competition with these new, struggling, and rapidly growing businesses the work of the cheap labor of foreign countries and the untaxed raw material of those countries.

There is another consideration I desire to call to your and your committee's attention in regard to this proposed fixed tax of 5 cents per pound on crude rubber. The production of rubber is constantly fluctuating and it is impossible to control it. All that can be obtained can be readily used. Rubber does not follow the general economic laws of production for reasons too numerous to state. The reading of any book on rubber production will give these reasons. The course of market prices influences the production of crude rubber far less than the price of any other staple. The principal reason is largely geographical inasmuch as native rubber is almost in its entirety produced in localities so far distant from the centers of commerce that the course of the market is only known after the production has been accomplished. It is largely dependent, too, upon the native African negro and the native South American Indian, both of whom are not to be depended upon for any regular labor. Para rubber, the purest grade, has fluctuated within the past two years from 95 cents per pound to \$2.85 per pound. That of itself tells the story and shows that the fluctuations are beyond the control of any interests in this country or of any other country. The manufacturer is now, because of these fluctuations, already bound to take considerable risks in the purchase of his raw materials. Considering these violent fluctuations in value, the placing of a fixed duty on crude rubber would render it practically beyond the power of the manufacturer to calculate, within any reasonable degree of certainty, the cost of the production of his manufactured article. In this country, through our mechanical ingenuity, we are producing a better grade of goods than are made in countries where there is no tax on the crude rubber, and we are able, because of our superiority in manufacture in many lines, to meet the manufacturers of those countries at the same price and furnish a better quality of article. It is because of this that our export business is constantly growing. If this tax is imposed, the manufacturer will have to cut down the quality of his goods and he can not then meet the

PARAGRAPH 591—RUBBER.

foreign manufacturer on his own ground. Finally, contrast the cost of material to the value of the product, as shown in the figures of the Thirteenth United States Census and you will conclude that there are few industries where the cost of material bears such a high proportion to the value of the manufactured product. The percentage is about 60 per cent. Impose a tax on the raw material and you will impose an additional burden that no other line of manufactured goods is bearing, so far as I know, and bear in mind that in doing so it is for no protective purpose, since crude rubber is not produced in this country. The tax does not return in any way to the inhabitants of this country. It is taken bodily out of the pockets of manufacturers who are already bearing in their line a disproportionate cost of material, who, in their turn, must naturally shift this increased burden on the consumer.

In conclusion, I desire to emphasize these points: (1) That the imposition of this proposed tax would not result in sufficient revenue to meet the deficit created by a reduction in the tariff on wool. (2) That the imposition of this proposed tax would not create more than a revenue of \$5,000,000, which again is uncertain because the commercial elimination of pontianak would affect the importation of other grades of rubber. (3) That the ultimate effect of such tax would be to shift the burden from one commodity to another without resulting in any benefit to the public, but on the contrary impose immeasurable hardship on the manufacturer, the employee, and wage earner in this industry. (4) That the imposition of this tax would affect our large and growing export trade, coming in competition with various countries where no tax is imposed. (5) That it being a proposed tax on raw material not in any way produced in this country, it can not be for protective purposes.

Respectfully submitted.

FREDERIC C. HOOD,
President Rubber Club of America.

TELEGRAMS CONCERNING CRUDE RUBBER.

NEW HAVEN, CONN., *February 23, 1912.*

Hon. FRANCIS BURTON HARRISON,
House of Representatives, Washington, D. C.:

Referring to our conversation of February 14 regarding proposed import tax on crude rubber 100 per cent of my company's business is rubber footwear, which is a necessity. In 1911 40 per cent of output was exported. No European countries pay import duty on crude rubber, except Russia, where I understand tax is rebated to Russian companies as outlined in section 25, tariff act of August 5, 1909; drawback system is expensive to manufacturer and would be particularly complicated; applied to manufacturer of rubber we can not expect to hold our foreign business with a tax on our crude material, and I respectfully urge that raw rubber be left on free list.

H. STUART HOTCHKISS.

BOSTON, MASS., *February 23, 1912.*

Hon. JOHN A. THAYER,
House of Representatives, Washington, D. C.:

We are the largest single rubber footwear manufacturers in this country. We do a considerable export business, especially in England. The proposed import duty on our principal raw material, namely, rubber, would be a serious blow to us. It would ruin our export trade and would necessitate raising prices on our product, which is consumed mostly by those people of this country who can least afford to pay the increased price. May we ask you to help against this proposed duty.

FREDERIC C. HOOD,
Treasurer of Hood Rubber Co.

BOSTON, MASS., *February 23, 1912.*

Hon. JAMES M. CURLEY,
House of Representatives, Washington, D. C.

The Rubber Club of America learns with dismay that an import duty is proposed on crude rubber. On behalf of the Rubber Club of America representing in its membership the entire rubber industry of the country, I beg most respectfully to protest against such proposed duty on our raw material. Rubber goods to-day are an essential for all classes of people, especially the poorer classes, and the proposed duty

PARAGRAPH 591—RUBBER.

would be a great hardship in the increased cost to the consumer throughout this country and would also ruin our export trade on manufactured goods. The club would like to send its representatives to Washington to be heard on this subject.

FREDERIC C. HOOD,
President of Rubber Club of America.

SUGGESTIONS REGARDING SCRAP RUBBER.

AKRON, OHIO, *February 12, 1913.*

HON. OSCAR W. UNDERWOOD,
House of Representatives, Washington, D. C.

DEAR SIR: We have had brought to our attention paragraph 591 of the present law, in which appears the words: "Scrap rubber, fit only for remanufacture and which has been worn out by use, to be admitted free of duty." The words: "Worn out by use," in our opinion should be eliminated, as there is a great deal of scrap rubber, fit only for reclaiming purposes, consisting of trimmings, mold rinds, and that kind of scrap, accruing every day in a rubber factory that are dutiable under the present law.

It is just as logical to assume that scrap rubber which has been worn is dutiable as it is that which has not been worn is dutiable.

We use approximately 40,000,000 pounds of scrap rubber per year, a percentage of which is imported. This is used for nothing but for the purpose of making reclaimed rubber, and is distinctly raw material to be used for manufacturing purposes and, in our opinion, all scrap rubber should be admitted absolutely free of duty.

The amount of this material that could be diverted to other uses is so immaterial when compared with the total volume that it is too much the case of the great number of legitimate users being penalized on account of a possible—although not probable—abuse of free entry.

Very truly, yours,

THE PHILADELPHIA RUBBER WORKS CO.,
J. S. LOWMAN, *Vice President.*

TRENTON, N. J., *February 12, 1913.*

HON. OSCAR W. UNDERWOOD,
Washington, D. C.

DEAR SIR: In your paragraph 591 of the present law a provision is made for scrap rubber, whereas all scrap rubber that is worn out by use and fit only for remanufacturing purposes is admitted free of duty.

Such scrap rubber referred to consists mostly of old rubber shoes, rubber hose, etc., which of course is only scrap waste, and is admitted free of duty.

The phrase "which has been worn out by use" excludes from the paragraph such scrap waste as overflow from molds and other new scrap waste which can not be used as a new product and is only fit to be ground up and used for remanufacturing purposes.

According to the wording of the law, which has been in effect for more than 25 years, all scrap rubber, whether worn out by use or otherwise, is admitted free of duty.

The appraisers are now appraising such material that is not worn out by use as unenumerated waste, and accordingly assess a 10 per cent duty on same.

In view of the fact that new waste rubber and old waste rubber are the same and can only be ground up for remanufacturing purposes, we think that the assessment of 10 per cent duty is unfair, and we would be pleased to have you remove the words "which has been worn out by use" from paragraph 591, and any assistance which you can render us in this respect will be greatly appreciated.

Yours, respectfully,

TRENTON SCRAP RUBBER SUPPLY CO.,
I. FINEBURG, *Manager.*

UNITED STATES RUBBER CO.,
Naugatuck, Conn., January 29, 1913.

HON. E. J. HILL, M. C.,
House of Representatives, Washington, D. C.

MY DEAR MR. HILL: I have this day signed a petition addressed to the Ways and Means Committee of the House of Representatives praying for a change in the wording

PARAGRAPH 591—RUBBER.

of the law in regard to admission of scrap or waste rubber, and it would please me very much if you could see your way clear to advocate the change as represented in this petition, which is signed by a number of the rubber reclaimers of the country as well as by some scrap rubber dealers.

The words to be eliminated, as the petition indicates, are "worn out by use." We recently imported a lot of old rubbers, or at least they were bought as old rubbers, and when they were examined at the customhouse to our surprise it was discovered that a large majority of them were rubber shoes which had been burned in a fire abroad, and were fit only for remanufacture. They had never been worn, but they were in such condition that it was absolutely impossible to use them as new shoes, nevertheless, under the strict construction of the law we were assessed a 10 per cent duty on the consignment, the duty amounting to between \$300 and \$400. I believe this was such a literal construction of the law that it amounted to an absurdity. They were really not as good for our purpose as shoes which had been "worn out by use." They were fit only for remanufacture, but, not having been worn out by use, they were classed as new scrap rubber.

Occasionally in shipments which we have received from abroad, dealers on the other side either intentionally or inadvertently put in scraps of new clippings, and if same is discovered by the inspectors at the port of New York, the material is at once assessed on the basis of 10 per cent duty for the whole consignment. There has been so much of this recently in the exact enforcement of the law according to the letter that it has worked real hardship on dealers as well as manufacturers, and it is for this purpose that we are asking the Ways and Means Committee to change the wording, so that waste rubber which is "fit only for remanufacture" may be admitted duty free, the same as rubber which has been worn out by use.

Anything you can do to bring about the change requested would be heartily appreciated.

Yours, very sincerely,

WM. T. RODENBACH, *Manager.*

BRIEF OF THE VOORHEES RUBBER MANUFACTURING CO., JERSEY CITY, N. J.

JERSEY CITY, N. J., *January 14, 1913.*

The CHAIRMAN WAYS AND MEANS COMMITTEE,
House of Representatives, Washington, D. C.

DEAR SIR: There has been so much said in the papers recently concerning the revision of the tariff that we are reminded of the suggestion made some months ago that there be a duty placed on crude rubber in order to make up in a measure for the loss of revenue due to a decreased rate on sugar.

We are manufacturers, but at the same time are believers in a revision of the tariff on a downward scale, but we can hardly understand a plan which contemplates placing duties on raw materials which it is absolutely impossible to produce in this country and which have not heretofore been taxed.

We understand that the plan of taxing crude rubber was one of Senator Aldrich's projects.

The line of business in which we form a part consists in the manufacture of mechanical rubber goods, this term comprehending the manufacture of belting for mill and conveying purposes; hose for water, steam, air, and fire department purposes; pump valves, packings for steam joints, and a great many other articles of similar character which are used by manufacturers, miners, etc. By what stretch of the imagination such a crude line could be included under the head of luxuries we can not comprehend.

Besides this, a number of manufacturers have been for years developing an export trade, and in this branch they compete with German, English, and French manufacturers, particularly German. They can meet this competition notwithstanding the cheaper cost of labor in the countries mentioned, but should the duty upon the crude article be imposed, this outlet for American goods would be destroyed. With crude rubber on the free list we have no fear of competition.

If there is any ground for our fear that a duty is to be placed upon crude rubber, will you kindly advise and give us an opportunity to make a suitable protest?

Yours, truly,

VOORHEES RUBBER MFG. CO.,
JNO. J. VOORHEES, *President.*

PARAGRAPH 593—IODINE.

PARAGRAPH 592.

Indigo.

See American Cotton Manufacturing Association, page 5759; Badische Co., page 5775.

PARAGRAPH 593.

Iodine, crude.

IODINE.

PHILADELPHIA, *January 31, 1913.*

The Hon. OSCAR UNDERWOOD,

*Chairman Committee on Ways and Means,**House of Representatives, Washington, D. C.*

DEAR SIR: We earnestly urge retention on the free list of the following items for the reason that if made dutiable the unit of cost must, of necessity, be greater in this country than in other countries, where these materials are not taxed by an import duty.

Paragraph 482, acid benzoic.—This is the raw material of chief value in the manufacture of benzoate of soda.

Paragraph 593, iodine, crude.—This is the principal crude material in the manufacture of iodine resublimed, potassium iodide, iodoform, and other iodides. It is not produced in this country—Chili, Norway, and Japan being the principal countries of production.

Paragraph 610, lemon juice, lime juice, and sour orange juice.—Of these, concentrated lime juice, used in the manufacture of citric acid, is imported from the West Indies. It is not produced in this country.

Paragraph 613, citrate of lime.—This article is produced in, and imported from, Sicily and the West Indies. It is not made in this country.

Paragraph 655, carbonate of potash, crude or refined.—This article is not manufactured in this country, but is a product of Germany by reason of Germany's preeminence in potash production. It is the crude material in the manufacture of nearly all salts of potash.

Paragraphs 679, cloves and clove stems.—Principal source of production is the Island of Zanzibar. Cloves are used, not only as a spice, but also enter largely into the manufacture of oil of cloves, which is, in turn, further converted into other products.

Respectfully submitted.

POWERS-WEIGHTMAN-ROSENGARTEN CO.,
A. G. ROSENGARTEN, *Treasurer.*

PARAGRAPH 594.

Ipecac.

PARAGRAPH 595.

Iridium, osmium, palladium, rhodium, and ruthenium and native combinations thereof with one another or with platinum.

PARAGRAPH 596.

Ivory tusks in their natural state or cut vertically across the grain only, with the bark left intact, and vegetable ivory in its natural state.

PARAGRAPH 597.

Jalap.

PARAGRAPH 598.

Jet, unmanufactured.

PARAGRAPH 599.

Joss stick, or Joss light.

PARAGRAPH 600.

Junk, old.

PARAGRAPH 601.

Kelp.

PARAGRAPH 602.

Kieserite.

PARAGRAPH 603.

Kindling wood.

PARAGRAPH 606—LAC SPIRITS.

PARAGRAPH 604.

Kyanite, or cyanite, and kainite.

PARAGRAPH 605.

Lac dye, crude, seed, button, stick, and shell.

See M. Dorian, page 5776; National Varnish Manufacturing Association, page 5787.

PARAGRAPH 606.

Lac spirits.

LAC SPIRITS.

TESTIMONY OF W. H. BOWER.

The witness was duly sworn by the chairman.

Mr. BOWER. I first wish to speak on paragraph 606 of the free list, covering lac spirits. This is a tin mordant, and is used for dyeing with lac dyes and cochineals.

Mr. HARRISON. Isn't lac spirits exactly the same thing as tetrachloride of tin?

Mr. BOWER. No, sir.

Mr. HARRISON. Will you explain it to the committee?

Mr. BOWER. Tetrachloride of tin has the chemical formula SnCl_4 , which is stannic chloride, and is made to-day by passing chlorine gas over tin, either in the form of metal or tin scraps. It was formerly made in a solution by dissolving tin crystals, stannous chloride, in water, adding a certain amount of hydrochloric acid, and then oxidizing with chlorate of soda or chlorate of potash, making a solution of stannic chloride containing traces of chlorine, chlorites, and hypochlorites.

Mr. HARRISON. Does the substance of lac spirits, which proceeds from the gum on the twig, the Asiatic gum, compose that tetrachloride of tin?

Mr. BOWER. No, sir; lac spirits—it was the spirit of tin, a mordant made of tin dissolved in acid that was used in connection with dyeing.

Mr. HARRISON. Is lac dye not derived from lac?

Mr. BOWER. Lac dye is derived from lac; yes, sir. Lac dye was known about two centuries ago, in India, and it was the principal product of the coccus laccae. But since then the lac dye has been driven out entirely by the coal tar colors, and shellac, and button lac have become the principal articles derived from lac.

It was not the intention, I am quite sure, in the act of 1909, to class tetra-chloride of tin as lac spirits, but since then some importers have made application to have their tetra-chloride of tin entered as lac spirits. Their appeal was denied by the Board of Appraisers, and they carried it to the Customs Court of Appeals, and it was decided in favor of the importers, that tetra-chloride of tin was lac spirits.

It is a rather delicate subject to criticise a decision of the United States court, but I feel so sure of my facts that I have made the venture, and if I could read to you from Spens's Encyclopedia of the Industrial Arts, Manufactures, and Commercial Products, Division IV, which was published in London in 1881, "Among organic mordants, of which there are a number—amaranth spirit, yellow and

PARAGRAPH 606—LAC SPIRITS.

orange spirit, scarlet finishing spirit—and all spirits named practically for the dyewood or natural coloring material which was to be used as a dye, with either woollens or cottons or silks.” Now, in all these spirits you dissolve tin in muriatic acid and nitric acid and this solution is then used with oxalic acid, say, as a mordant. Some dyers, it says here, prefer to substitute tartaric acid for oxalic acid, but that has nothing to do with it. A tin spirit made in this way goes well with either cochineal or lac dye. Now, a spirit which is brighter goes well for cochineal and orange. Cochineal is almost exactly the same thing as lac dye, and they were used interchangeably except that the lac dye gave a more brilliant scarlet, but not quite so lasting. I made an investigation when this point was brought up; I consulted German dyers, English dyers, Swiss dyers, and went through the library of the Franklin Institute in Philadelphia, trying to find out just what lac spirits were. I found in one dictionary of chemistry, published long ago in England—Muspratt’s—that lac spirits is perchloride of tin, and that is the only authority that I have been able to find which makes the assertion that lac spirits is a stannic salt.

Mr. HARRISON. How do you recommend to the committee to unravel this snarl?

Mr. BOWER. To strike out from the free list lac spirits and to place in any bill which might be recommended by the committee the paragraph which you inserted in House bill 20182.

Mr. HARRISON. You are satisfied with that?

Mr. BOWER. Perfectly; yes, sir.

Mr. HARRISON. Although lac spirits are not mentioned by name there?

Mr. BOWER. Lac spirits we would have stricken out from the free list.

Mr. HARRISON. Yes.

Mr. BOWER. And then this paragraph relating to tetrachloride, the crystals, and to all other compounds of tin not specially provided for in this act at 15 per cent ad valorem.

Mr. HARRISON. Well, we mention lac dye, and we do not mention lac spirits, do we?

Mr. BOWER. No, sir. Lac spirits would still be on the free list, because it is not mentioned in your bill.

Mr. HARRISON. Yes.

Mr. BOWER. You have not excepted it from the free list.

Mr. HARRISON. Yes.

Mr. HILL. If it was not mentioned in the free list and not mentioned specifically in the bill that you propose to present, it would naturally come in as a nonenumerated manufactured article at 20 per cent instead of 15. It would have to be mentioned specifically if you get it down to 15 per cent.

Mr. BOWER. As a matter of fact, lac spirits is an obsolete article; it is not made or used any more.

Mr. HARRISON. And it remained on the free list so far as this bill was concerned?

Mr. BOWER. Yes, sir; that is the point that I make; yes, sir.

Mr. HARRISON. Do you desire to have it stricken from the free list?

PARAGRAPH 606—LAC SPIRITS.

Mr. BOWER. Yes, sir.

Mr. HARRISON. And mentioned in this bill?

Mr. BOWER. Stricken out entirely; not mentioned at all. We are not interested in lac spirits; in fact, nobody is.

Mr. HARRISON. Would there not still remain a question as to what lac spirits were, and where they were taxable?

Mr. BOWER. If there were any imported, yes, sir; but it is impossible to import lac spirits to-day. It would have to be imported in glass, in carboy containers, and I do not know of any steamship lines coming over across the Atlantic that would carry any such acid chemical in glass carboys, and that is the protection we have, you know, on other acids, on nitric acid, hydrochloric acid, and some of the more corrosive acids.

Mr. HILL. What is your objection; why do you object to its remaining on the free list, if they don't import? Simply for the perfection of the law?

Mr. BOWER. Simply for the perfection of the law; yes, sir; to get rid of dead wood.

Mr. HARRISON. I think it would be a good deal safer to mention it in the chemical schedule than to leave it suspended in mid air that way, because there would be more litigation about this thing unless we nail it down.

Mr. BOWER. You have covered in your bill all the salts of tin that might be imported?

Mr. HARRISON. In what clause?

Mr. BOWER. In this paragraph 75.

Mr. HARRISON. That is correct; yes.

Mr. BOWER. Yes, sir; I remember I had a short talk with you, and you immediately took it up and saw the injustice of the thing and had that paragraph inserted.

Mr. HARRISON. I may say that the subcommittees at that time in charge of the metal schedule and chemical schedule struggled as to which should take tetrachloride of tin. Both were unwilling.

Mr. BOWER. Well, tetrachloride of tin is a sort of outlaw article.

I also wish to address the committee on refined carbonate of potash. This article was made dutiable in House bill 20182, at the rate of one-half cent per pound. Refined carbonate of potash is not made in this country. It is not manufactured, and as far as I know can not be made here. There are no concerns to make refined carbonate of potash here, and the rate on this would absolutely increase the price, as the article is not competitive. There would be no chance to bring the price down through American competition, and we ask that this be allowed to remain on the free list, or, if it is made dutiable for revenue, that the articles which are made from it, or in the manufacture of which it is used, shall receive an equivalent amount of duty. That is all I have to say on that.

I would also say that whatever you do with refined carbonate of potash, there should be some limitation made on what refined carbonate of potash is, as any carbonate of potash which might be imported into this country might be considered refined, as it has gone through some method of treatment from its original crude state.

Mr. HARRISON. Is it difficult for the officers of the customhouse to distinguish between crude and refined?

PARAGRAPH 607—CASEIN.

Mr. BOWER. If you bring it from 40 per cent to 60 per cent, that is a certain refinement; if you bring it from 60 per cent to 99 per cent, that is another. You see, there is 88 per cent carbonate of potash, 90 per cent, 95 per cent, and 99 per cent.

Mr. HARRISON. Is that all?

Mr. BOWER. That is all, sir.

Lac spirits is an obsolete article, which was used as a mordant in dyeing scarlets with lac dye. Its use, so far as we have been able to ascertain, has been entirely discontinued.

Perchloride of tin, of which we are manufacturers, has been admitted free of duty as lac spirits, under a decision of the United States Court of Customs Appeals, reversing a decision of No. 1 Board of Appraisers. We have sold several million pounds of perchloride of tin in the 20 years that we have been manufacturing it, and have never sold one pound for use as a mordant, all of our product having gone to the silk dyers for use as a weighting material. We feel that the decision of the United States Court of Customs Appeals can not be supported by any facts that we have been able to gather.

We would therefore ask that lac spirits be stricken from the free list, and that paragraph 75 in House bill 20182, as follows:

Tin, chloride of, tetrachloride of, crystals, and all other compounds of tin, not specially provided for in this act or in the first section of the act cited for amendment, 15 per centum ad valorem.

be embodied in any bill that your committee may report.

Refined carbonate of potash is not produced or manufactured in the United States. The sources of supply are as follows: The washing of wool, the manufacture of beet-root sugar, and the conversion of sulphate of potash into carbonate by the Le Blanc process.

We are manufacturers of yellow prussiate of potash and use carbonate of potash in its manufacture. Any duty levied on refined carbonate of potash would increase the cost of manufacturing prussiate of potash. Refined carbonate of potash is not a competitive article, and the duty would be merely for revenue.

We would, therefore, ask that refined carbonate of potash be allowed to remain in the free list; or if it is decided by your committee to place a duty on this article, then we would request that you give the users of refined carbonate of potash an equivalent increase in the duties on the products which are made from it.

PARAGRAPH 607.

Lactarene, or casein.

CASEIN.**BRIEF SUBMITTED IN BEHALF OF INTERNATIONAL MILK PRODUCTS CO. AND MILK BY-PRODUCTS CO.**

The International Milk Products Co. and Milk By-Products Co. are concerns located in New York State and engaged in the production and manufacture of milk and dairy products and by-products.

They are asking for the imposition of a tariff duty on the importation of casein, as known in commercial trade, but sometimes designated in other circles as lactarine.

Casein is a by-product manufactured from skim milk and its component parts are known in commercial trade, but sometimes designated in other circles as lactarine.

PARAGRAPH 607—CASEIN.

Casein is a by-product manufactured from skim milk and its component parts are the same as the ordinary American cheese, except that in casein the product is reduced to a dried form and pulverized.

Casein is employed almost entirely in the glazed paper manufacturing trade. Dissolved it forms a tenacious gluey liquid, which is combined with clay, the latter being the principal component part of the coated surface of glazed papers.

The proportions of these two materials being substantially 15 pounds of casein to 100 pounds of clay. The present market price of this clay is something less than 1½ cents per pound; of casein 7½ cents per pound.

The average weight of the coating employed on a ream of glazed paper (22 by 28 inches) is about 18 pounds, the proportion of casein being approximately 2½ pounds.

The applicants ask for the imposition of a tariff rate of 2 cents a pound on this commodity; believing that it will afford a legitimate means of revenue for the uses of the Federal Government raised on an article which can not be classed as one of the necessities of life, although the finished product into which it enters is unquestionably of quite general use and convenience.

The average consumption of the ordinary individual of the finished product is also that limited that such a tax would not impose hardship on him; in fact it is improbable that it would affect the price to the ultimate consumer.

The importation of foreign casein and its increase in the past few years are shown by the following table:

Importations.

	1910	1911	1912
Pounds.....	3,769,476	13,011,018	9,138,338
Gross value.....	\$304,001	\$1,109,466	\$330,845
Average value per pound.....	\$0.081	\$0.085	\$0.091

The domestic production, as far as any reliable statistics exist, was, 1905, 11,581,874 pounds; and 1910, 13,018,298 pounds.

There are no statistics compiled showing the domestic production for the years 1911 and 1912, but it is certain that it was less than the preceding year, which shortage to a certain extent accounts for the marked increase in importations in 1911.

In the latter year the average price for the domestic article was 10 cents a pound. During that year and the following, owing to the large volume of importations, such a surplusage accumulated that both the demand for the product was naturally lessened and the price was depressed, which conditions now continue, the current price for the domestic article at the present time being about 7½ cents.

Owing to the low price and the limited demand for the product, as a result of the accumulated stock, the larger portion of small producers were obliged to discontinue the manufacture of the product throughout the season of 1912, and a number of the larger concerns have also discontinued the production as unprofitable, a condition which still prevails.

The concerns which the compiler of this brief represents, while a fair factor in production considered as a finished product, as well as the others also producing a completed article, by no means constitute all the interests affected.

The bulk of the product is manufactured in a crude form by concerns who do not obtain in the operation of their business a sufficient quantity of raw material (skim milk) to justify them in installing the necessary equipment to make a completed article.

These people—the average butter plant and small milk shipper—are in reality more affected than the others, and many have been compelled to discontinue the production of the crude article.

Practically all dairymen, particularly in the Eastern States, who are selling whole milk to either butter manufacturing plants, or milk shippers, are affected as well, as it is apparent that if the manufacturer can obtain a fair price for his by-products he can pay more for milk. It can be safely stated, as far as Eastern States are concerned, that with the present high prices of feeds, no manufacturer can pay a price sufficient to make milk production pay even a living to the dairymen, unless such manufacturers utilize the by-products. A condition that prohibited their production by the smaller manufacturer militated directly against the interests of the dairymen.

As stated before, the importations of the year 1911 were most probably abnormal,

PARAGRAPH 610—LEMON JUICE.

and a fair estimate of the importation of casein would be about 10,000,000 pounds on which the revenue, on the basis asked for, would be \$200,000.

Importations are made principally from France, Italy, Sweden, and South America, the quality of those from the European countries being about the same as the better grades of the domestic production and that from South America somewhat inferior to the average home product.

In making these estimates, the compiler has endeavored to gain as reliable information as possible from those engaged in the industry and believes that the statements of this brief are substantially correct as to figures given, being aided somewhat by personal experience from personal connection with the business for about 10 years.

All of which is respectfully submitted.

JULIEN SCOTT,
Bainbridge, N. Y.

PARAGRAPH 608.

Lava, unmanufactured.

PARAGRAPH 609.

Leeches.

PARAGRAPH 610.

Lemon juice, lime juice, and sour orange juice, all the foregoing containing not more than two per centum of alcohol.

LEMON JUICE.

NEW YORK, N. Y., *January 31, 1913.*

HON. OSCAR W. UNDERWOOD,
*Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.*

DEAR SIR: Pursuant to your notice of tariff hearings, 1913, dated December 11, 1912, we beg to submit the following:

The items mentioned herein refer to the present tariff law.

PARAGRAPHS 610-613.—*Lemon juice, lime juice, and citrate of lime.*

Referring to our brief dated January 6, 1913, under the heading of citric acid, lime, citrate of, lemon juice and lime juice, and printed in the dutiable portion of hearings, we respectfully submit that lime, citrate of, lemon juice and lime juice, should all be retained on the free list for the reasons as outlined in our above-mentioned brief.

No country in the world, to our knowledge, has a duty on these materials, and should a tariff on them be effected by your honorable body, American manufacturers would be placed at a great disadvantage in the manufacture of citric acid, which is derived from these crude materials, in competition with foreign manufacturers.

PARAGRAPH 527.—*Camphor, crude, natural.*

Referring to our brief dated January 6, 1913, under the heading of camphor, refined, and synthetic camphor. Camphor, crude, natural, and printed in the dutiable portion of hearings, we respectfully submit that, for reasons as stated in our above-mentioned brief, camphor, crude, natural, should be retained on the free list.

PARAGRAPH 593.—*Iodine, crude.*

Referring to joint brief dated January 6, 1913, of various manufacturing chemists, under the heading of medicinal and other fine chemicals, of which brief we were one of the signers, and which brief was printed in the dutiable portion of hearings, we respectfully submit that iodine, crude, be retained on the free list for the reasons as outlined in the above-mentioned joint brief.

Respectfully, yours,

CHARLES PFIZER & Co. (Inc.),
FRANKLIN BLACK, *Secretary.*

PARAGRAPH 619—MANGANESE ORE.

PARAGRAPH 611.

Licorice root, unground.

PARAGRAPH 612.

Lifeboats and life-saving apparatus specially imported by societies incorporated or established to encourage the saving of human life.

PARAGRAPH 613.

Lime, citrate of.

PARAGRAPH 614.

Lithographic stones, not engraved.

PARAGRAPH 615.

Litmus, prepared or not prepared.

PARAGRAPH 616.

Loadstones.

PARAGRAPH 617.

Madder and munjeet, or Indian madder, ground or prepared, and all extracts of.

PARAGRAPH 618.

Magnesite, crude or calcined, not purified.

PARAGRAPH 619.

Manganese, oxide and ore of.

MANGANESE ORE.

BRIEF OF THE HARSHAW FULLER & GOODWIN CO., CLEVELAND, OHIO.

CLEVELAND, January 6, 1913.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: We beg respectfully to direct your attention to a condition affecting the manganese industry, which in our opinion calls for relief. We have for a number of years imported large quantities of manganese ore from the caucasus in southern Russia. The ore is shipped to us in bulk in 500 to 1,000 ton lots, just as it comes from the mines, except that it is run through a washing process at the mines to free it from silica and other foreign substances. In this state it is known to commerce as manganese ore. It differs from the manganese ore used by steel makers in its metallic composition. We receive most of our shipments through the port of Baltimore, and from there it is transported to our works in Elyria, Ohio, where it is ground and graded for the use of manufacturers of dry batteries, glass, brick, and driers. After grinding, the ore is run through screens of various sizes, as some consumers require a finely powdered material, while others must have it in granulated form or in lumps of uniform size. The business of buying the ore in its crude form, bringing it to this country, grinding, and grading it was started by our company several years ago. We have built up an extensive business and employed a considerable number of workmen. The value of the ore is approximately \$12 a ton, ex vessel Baltimore. The average cost for grinding, grading as to size, and packing in barrels and casks is \$6 a ton. We pay ordinary labor \$2 a day and skilled labor from \$2.50 to \$3.50 a day, and use barrels and casks that are made by American coopers receiving American scale of wage. The machinery that we use is the product of American factories. During the past two or three years foreign plants similar to ours have been established at Antwerp, Rotterdam, and Hamburg, where the ore is now being ground, graded, packed, and shipped direct to consumers in this country. Owing to the lower labor costs for doing this work abroad, we are unable to meet this competition, and our business has latterly become unprofitable. Moreover, shipments are made from abroad to interior points in the United States on through bills of lading at commodity rates, whereas we are obliged to pay regular sixth-class rate on shipments from our factory to our customers. Our interior cities are therefore quite accessible to the foreign competitors.

The Payne Act puts crude manganese ore on the free list, and properly so, in our opinion, but our contention is that after grinding, grading, and packing it becomes a manufactured article in whole or in part, and should not be admitted under the clause referred to. The Treasury Department, under decisions Nos. 30002 and 30249, hold

PARAGRAPH 624—MEDALS.

against us, but we are, nevertheless, of the opinion that the framers of the tariff law never intended to admit free of duty manganese oxide or ore which had been ground, graded, and otherwise advanced in value to the extent of more than 50 per cent of its original value. We would respectfully suggest to this committee that paragraph No. 619 of the free list of the Payne Act be amended to read as follows:

"Manganese, oxide and ore of, when not ground, graded, packed in bags, barrels, or other packages."

We make this recommendation in the interest of American labor. It is purely a question of whether it should be done abroad at the foreign rate of wage or whether it should be done in this country by American workmen receiving American rate of wage. If the latter, duty must be provided to cover the difference in the labor cost.

Respectfully,

RALPH L. FULLER, *Secretary.*

PARAGRAPH 620.

Manna.

PARAGRAPH 621.

Manuscripts.

PARAGRAPH 622.

Marrow, crude.

PARAGRAPH 623.

Marshmallow or althea root, leaves or flowers, natural or unmanufactured.

PARAGRAPH 624.

Medals of gold, silver, or copper, and other metallic articles actually bestowed as trophies or prizes, and received and accepted as honorary distinctions.

MEDALS.

BRIEF OF THE AMERICAN NUMISMATIC ASSOCIATION, NEW YORK, N. Y., ET AL.

NEW YORK, *February 17, 1913.*

HON. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means.

SIR: I am handing you herewith a brief from the American Numismatic Society and the American Numismatic Association, respectfully asking that the duty on medals be remitted.

The matter is fully covered in the brief, but I desire to add that the American Numismatic Society is the oldest of its kind in the United States, organized in 1858 and incorporated in 1865, and having in its membership a large number of representative men. It maintains a numismatic museum, which is free to the public, and is the only building in the world devoted exclusively to that purpose. The American Numismatic Association is national in character. Its educational and historical advantages and benefits were recognized when it was granted a Federal charter by Congress on May 9, 1912.

Any further information which may be required will be cheerfully furnished by

Yours, very respectfully,

ROBERT JAMES EIDLITZ.

Proceedings of fifty-fourth annual meeting, 1912, inclosed.

NEW YORK, *February 15, 1913.*

HON. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means.

SIR: We, the American Numismatic Society and the American Numismatic Association, desire respectfully to call attention to the subject of duties on medals, as now imposed by the Customs Department of the United States. The Encyclopedia Britannica defines, "Medal—strictly the term given to a memorial piece, originally of metal, and generally in the shape of a coin, used however not as currency but as an artistic product. The term 'medal' is artistically extended by analogy to pieces

PARAGRAPH 624—MEDALS.

of the same character not necessarily shaped like coins. The history of coins and medals is inseparable."

The Century Dictionary, quoting from Wroth's "Coins and medals," says, "Italian and French writers of the fifteenth and sixteenth centuries used 'medaglie' and 'medailles' to signify coins which, being no longer in circulation, were preserved in the cabinets of collectors as curiosities. Even in the last century our own word 'medal' was so employed."

At the present time there is absolutely no provision for the entry of medals as such. They are classed under the general head of "Manufactures of metal" and a payment of 45 per cent ad valorem is exacted on all which are less than 100 years old.

Medals are, as a rule, issued to commemorate events of importance, and are of great educational and historical value. Many medals are of great artistic merit. Their value is based on their rarity and the skill and fame of the artist. The importation of medals into this country competes with no American manufacture, as they are sought almost exclusively by museums and collectors. While the revenue obtained from them by the Government is infinitesimal, it is a heavy burden upon a comparatively few individuals.

It frequently happens that two medals of the same size and of identical cost to produce vary 100 per cent in value. It is inequitable, therefore, that a duty should be imposed as a manufacture of metal when the selling price in no way represents the combined cost of manufacture and the intrinsic value of the metal.

Stamps and coins are entered duty free. Medals are in the same category with coins when such are no longer current.

In view of these facts, of the great educational value of medals, and the needed stimulation to medallic art in this country, we would respectfully ask that medals be entered duty free, provided not more than two of the same kind be brought in by the same individual.

Should it seem desirable to exclude distinctly modern productions, it might be fair to maintain a duty on such as are less than 10 years old. The fact that they do not compete with anything of American manufacture would, however, warrant a reduction in the present rate of duty.

Respectfully submitted.

THE AMERICAN NUMISMATIC SOCIETY,
By ROBERT JAMES EIDLITZ,
Chairman Committee on Foreign Medals.
THE AMERICAN NUMISMATIC ASSOCIATION,
By JUDSON BRENNER, of De Kalb, Ill.,
President.

BRIEF OF BENNO LOEWY, NEW YORK, N. Y.

NEW YORK, January 27, 1913.

HON. OSCAR W. UNDERWOOD, M. C.,
Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: As far back as April 18, 1911, I wrote to you and to Congressman (now Governor) Sulzer, with reference to placing medals on the free list.

I pointed out to you then that under the tariff act of 1909, paragraph 542, "Coins of gold, silver, copper, or other metal," and under paragraph 682, "Stamps; foreign postage or revenue stamps, canceled or uncanceled, and foreign Government stamped post cards bearing no other printing than the official imprint thereon," are on the free list, so that stamp collectors and coin collectors can bring their purchases into the country without the payment of duty. Even "Bullion, gold or silver," which is distinctively an article of commerce, is free under paragraph 524. Under paragraph 624, "Medals of gold, silver, or copper, and other metallic articles actually bestowed as trophies or prizes and received and accepted as honorary distinctions," are free, but the American collector of medals is taxed 45 per cent ad valorem under paragraph 199 upon medals as "Articles or wares not specially provided for in this section, composed wholly or in part of iron, steel, lead, copper, nickel, pewter, zinc, gold, silver, platinum, aluminum, or other metal, and whether partly or wholly manufactured, 45 per centum ad valorem," which seems rather anomalous; a medal, which is generally looked upon as a work of art, as well as a historical document, is thus classed as an article of ordinary manufacture and not even deemed worthy of specific enumeration.

PARAGRAPH 629—MODELS.

We have no "infant industry" of manufacturers of medals which requires protection. The amount of duty annually collected upon the importation of medals, must, necessarily, be entirely negligible.

It seems, therefore, difficult to appreciate the logic or justice in a tariff which favors the coin collector, while it discriminates against the collector of medals.

Gov. Sulzer has repeatedly, as he has informed me, brought this matter to your attention and you were kind enough to write me that when the proper schedule was under consideration you would see that the matter was properly brought to the attention of your committee. As the tariff is now again under consideration, and those who have direct pecuniary interest at stake are besieging your committee with pleas of a purely commercial character, I beg leave again to bring this matter to your and your committee's attention so that it may not be wholly overlooked when the "proper schedule" is being considered, and trust that as the ancient doctrine that everything which is imported must be taxed to the highest possible point regardless of the necessity, utility, or propriety of the tax now appears to be exploded, the collector of medals will receive the same recognition that has for many years been accorded to the collector of coins, and that medals will be placed upon the free list.

I have the honor to remain,

Very respectfully, yours,

BENNO LOEWY,

*Member of the American Numismatic Society
and of its Committee on Masonic Medals.*

PARAGRAPH 625.

Meerschaut, crude or unmanufactured.

PARAGRAPH 626.

Minerals, crude, or not advanced in value or condition by refining or grinding or by other process of manufacture, not specially provided for in this section.

PARAGRAPH 627.

Mineral salts obtained by evaporation from mineral waters, when accompanied by a duly authenticated certificate and satisfactory proof, showing that they are in no way artificially prepared, and are only the product of a designated mineral spring.

PARAGRAPH 628.

Miners' rescue appliances, designed for emergency use in mines where artificial breathing is necessary in the presence of poisonous gases, to aid in the saving of human life, and miners' safety lamps.

PARAGRAPH 629.

Models of inventions and of other improvements in the arts, to be used exclusively as models and incapable of any other use.

MODELS.

STATEMENT SUBMITTED BY THE NATIONAL MALLEABLE CASTINGS CO., CLEVELAND, OHIO.

The COMMITTEE ON WAYS AND MEANS:

House of Representatives, Washington, D. C.

The undersigned, The National Malleable Castings Co., of Cleveland, Ohio, respectfully calls the attention of your committee to the subject of the duty on foundry patterns, with the request that in considering the revision of the tariff you recommend to Congress that patterns be restored to the free list by reenacting the following provision of the McKinley and Dingley tariffs:

"Free list, paragraph 616 of the tariff of 1897: Models of inventions and of other improvements in the arts, including patterns for machinery, but no article shall be deemed a model or pattern which can be fitted for use otherwise."

In the Payne tariff bill this clause was changed to read as follows:

"Tariff of 1909, paragraph 629, free list: Models of inventions and of other improvements in the arts, to be used exclusively as models and incapable of any other use."

You will see that the words "including patterns for machinery" have been dropped out. The purpose of this change was to prevent the free importation of what are

PARAGRAPH 629—MODELS.

known as molders' or foundry patterns, and as no provision was made fixing a rate of duty on them, they became subject to a rate of 45 per cent ad valorem under clause 199 of the metal schedule, when made of metal, as is usually the case when patterns are intended for continuous use in producing castings.

We understand it is the policy of the Government to encourage development by home manufacturers of an export business. If this is the case, it would seem proper that reasonable steps should be taken to remove obstacles to such development.

To enable you to appreciate how our business with Canadian customers has been affected by the present tariff on patterns, we will state:

As manufacturers of malleable iron castings we have for many years taken orders from customers in Canada to make castings in our foundries in the United States from patterns owned by our Canadian customers, usually manufacturers of agricultural implements. Such patterns are sent to us to be used for that purpose and not otherwise. They remain the property of the Canadian customer while in our possession and may be recalled by him at any time.

Our business in making castings for Canadian customers in the business year ending June 30, 1912, amounted to considerably over \$135,000, giving employment to a large number of molders. Most of this business could not have been secured if we could not have used the customers' own patterns.

When a Canadian customer sends us his patterns for use in executing his orders, we have to pay duty on them, as previously stated, as manufactures of metal, not otherwise classified, at 45 per cent ad valorem. As such patterns have no established market value we are obliged to depend on our customer to fix the value of the patterns, and if in the opinion of the appraiser this value is too low, it becomes necessary to have an appraisal, which involves serious delay and expense. If the patterns are returned to the customer, there is no provision for a drawback or refund of duty on their exportation. And if he again sends them back to us we are required to pay duty on them each time they are reimported.

The value arrived at by appraisal of the patterns covered by any one importation can not serve as a basis for determining the value of those covered by any subsequent importation unless the patterns in each are identical, or nearly alike, which is hardly ever the case.

In order to ascertain what it would cost to produce any given lot of patterns, it would be necessary to have separate appraisals of all which were not duplicates. When patterns become obsolete for any reason, or when the design of the article they are intended to produce has been changed, or the use of such articles discontinued, as is frequently the case, then the value of the patterns declines to the scrap value of the materials of which they are constructed. For this reason many manufacturing concerns do not consider their patterns an asset of more than nominal value, although a considerable sum may have been originally expended for their construction.

As we have previously stated, patterns such as we have described are not imported by us for permanent use nor for sale. They can not be used for any other purpose than that which they were intended; that is, the production of castings in a foundry. Their use is limited to the making of castings for parts of the owner's machines or implements, which machines they (the owners) make, build, and assemble; and consequently they could not be used for producing castings to be sold to the trade. If the American manufacturer could not make use of the customer's own patterns, he probably could not get the business. The making of the castings gives employment to a large number of workmen, many times greater than those required to produce the patterns. The value of such patterns is small in comparison with the value of the castings which can be produced from them. A very large quantity of castings can be produced from a single pattern, or from a single gate or card of patterns. If the patterns are made of brass or bronze, as are those intended for long running orders, and are well made, and if they are not damaged by careless handling or by accident, they can be used for years with but slight repairs. Thus a few pounds of patterns can be made use of to produce many tons of castings.

It may be asked whether the patterns can not be made in this country. They can be made here; but if the Canadian customer already has his patterns, which have been made and tested under his direction, he would not be willing to incur the expense and delay due to having them duplicated in this country, especially as this would involve his having two sets of patterns for the same castings when one would suffice. The question of time is also an element in the matter. Even if it were possible to induce the customer to have his patterns made in this country, the delay would upset the business. The work of manufacturing agricultural implements has to be done in time to permit of their being marketed before the proper season for their use

PARAGRAPH 630—SEA GRASS.

in each year. If it were necessary to make the patterns to produce the castings before commencing work on the orders, the castings in many cases could not be gotten out in time for the season's business.

We understand that the revenue derived from this source is inconsiderable, and do not believe the importation of foundry or molders' patterns would ever become an important source of revenue.

We trust this subject may have careful consideration by your committee and that you may be willing to recommend the restoration of patterns to the free list, as previously requested.

Respectfully submitted.

THE NATIONAL MALLEABLE CASTINGS CO.,
By O. K. BROOKS, *Treasurer*.

CLEVELAND, OHIO, *January 8, 1913.*

PARAGRAPH 630.

Moss, seaweeds, and vegetable substances, crude or unmanufactured, not otherwise specially provided for in this section.

SEA GRASS.**BRIEFS CONCERNING SEA GRASS.**

JANUARY 27, 1913.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: I respectfully submit for your consideration certain reasons why there should be a tariff placed on imported sea grass.

The industry in the United States is still in its infancy and needs the fostering care of the Government at this time.

Sea grass is a principal part of the upholstering business and has supplanted the use of excelsior, tow, jute fiber, and Florida grass. It can only be gathered along the Atlantic seacoast and the nature of this work necessitates the employment of experienced baymen. On account of the class of men required in this business it is necessary to pay \$3 per day and we can not compete with the convict labor of foreign countries and the Hollander who received a mere pittance for his labor.

When I first started in this business ten years ago we had the Canadian to compete with. They received \$40 per ton and to-day they are selling their product for \$25 per ton f. o. b. Chicago.

Holland grass started as a competition about four years ago and under free entry our local business has dwindled to nothing. Holland grass is selling for \$15.30 per long ton delivered at New York and Philadelphia, which is less than what it cost to gather in this country.

The cost to produce the grass at Barnegat Bay is \$14.20 per short ton, the freight to New York is \$2.80 per ton, making a New York delivery \$17 and the highest price ever received within the last three years was \$19, making a margin of gross profit of \$2. If necessary the Holland grass can be delivered at New York for \$10, but they can not at the present rate supply their trade.

I trust that my contentions will commend my cause to the equitable consideration of your committee.

Respectfully submitted by

KINSEY SEA MOSS CO.
J. B. KINSEY, *President*.

PARAGRAPH 630—SEA GRASS.

PHILADELPHIA, PA., *January 14, 1913.*

The COMMITTEE ON WAYS AND MEANS,
House of Representatives.

GENTLEMEN: For a number of years we have been in the business of collecting, curing, and shipping sea grass—which is used for filling in furniture and other purposes. The season for this work is short—from June until October.

Six or seven years ago we were able to employ labor for this work at \$1.25 a day of 10 hours. At present we can not get labor for less than \$1.50 to \$2 a day—8 to 9 hours. The cost of the work is almost entirely labor. The grass is put up for market in bales of about 200 pounds weight each. The Philadelphia Excelsior Co., of this city, has for a number of years been handling considerable of our product. The price has been gradually reduced until it now shows no profit. A further reduction is mentioned, on account of the same grass being imported and sold in the cities of New York and Philadelphia at prices below the cost of production here, for the simple reason that it is admitted free of duty. The cause of this is the low cost of labor in foreign countries. There has been some competition caused, as we have been informed, by the beds of immigrants (on arrival of ships here), which are filled with this grass, being baled up and sold for the same purposes. This is hardly a sanitary proceeding. We are now informed that the grass is being imported here baled up, and admitted free of duty. This, continued, will break up a new and growing American industry, and the only relief we see is for your honorable committee to impose a tariff of say 20 to 25 per cent on imported sea grass, imported in bales.

The Philadelphia Excelsior Co. is no doubt well posted on the conditions of the market, and any desired information may be had from them. We think they would be willing to give it.

Yours, truly,

SWORD BROS.

PARAGRAPH 631.

Musk, crude, in natural pods.

PARAGRAPH 632.

Myrobolans.

PARAGRAPH 633.

Needles, hand sewing and darning.

PARAGRAPH 634.

Newspapers and periodicals; but the term "periodicals" as herein used shall be understood to embrace only unbound or paper-covered publications issued within six months of the time of entry, devoted to current literature of the day, or containing current literature as a predominant feature, and issued regularly at stated periods, as weekly, monthly, or quarterly, and bearing the date of issue.

PARAGRAPH 635.

Nuts: Brazil nuts, cream nuts, marrons crude, palm nuts and palm-nut kernels; cocoanuts in the shell and broken cocoanut meat or copra, not shredded, desiccated, or prepared in any manner.

PARAGRAPH 636.

Nux vomica.

PARAGRAPH 637.

Oakum.

PARAGRAPH 638.

Oil cake.

PARAGRAPH 639—OILS.

PARAGRAPH 639.

Oils: Almond, amber, crude and rectified ambergris, anise or anise seed, anffine, aspic or spike lavender, bergamot, cajeput, caraway, cassia, cinnamon, cedrat, chamomile, citronella or lemon grass, civet, cocoanut (not refined and deodorized), cotton-seed, croton, fennel, ichthyol, jasmine or jasimine, juglandium, juniper, lavender, lemon, limes, mace, neroli or orange flower, enfleurage grease, liquid and solid primal flower essences not compounded, nut oil or oil of nuts, soya-bean, olive oil rendered unfit for use as food or for any but mechanical or manufacturing purposes, by such means as shall be satisfactory to the Secretary of the Treasury and under regulations to be prescribed by him; attar of roses, palm, palm kernel, rosemary or anthoss, sesame or sesamum seed or bean, thyme, origanum red or white, valerian; and also spermaceti, whale, and other fish oils of American fisheries, and all fish and other products of such fisheries; petroleum, crude or refined, including kerosene, benzine, naphtha, gasoline, and similar oils produced from petroleum.

See also National Varnish Manufacturing Association, page 5787; Benzol Products Co., page 5792; J. T. Schoellkopf, page 5805; New York Quinine & Chemical Co., page 5818.

OILS.

TESTIMONY OF WILLIAM H. WADHAMS, ESQ., REPRESENTING
THE B. T. BABBITT CO., NEW YORK, N. Y.

The witness was duly sworn by the chairman.

Mr. WADHAMS. The next witness on your calendar is Mr. H. W. Brown, who is the chairman of our conference of laundry-soap manufacturers, of which Mr. Wadhams is secretary. As Mr. Wadhams has heretofore appeared here at previous hearings on the chemical schedule under Schedule A and under Schedule G before this committee, Mr. Brown has asked him to take his time, with the permission of the committee, so that, with your permission, I may have half an hour.

The CHAIRMAN. There is a combination of two witnesses that under our rules will give you 20 minutes. If you can not finish in that time we will try to be liberal with you.

Mr. WADHAMS. The laundry-soap manufacturers of the United States are in a highly competitive business. We have heretofore appeared before your committee on the 6th of January and stated our position on the general proposition of the revision of the tariff. In response to the inquiry on your postal as to what our opposition was, we stated that we were in sympathy with the general proposition of the revision of the tariff downward, to which we understand the majority of this committee are committed, and that for that reason, although we do not ask it, we do not oppose the proposed reduction upon the manufactured article—that is, upon laundry soap.

Under H. R. 20182 it was proposed to reduce the duty from 20 to 15 per cent ad valorem upon laundry soap. We, however, take the position that such a reduction should not be made upon the manufactured article unless the raw materials which appear upon the free list and concerning which you are making an inquiry to-day, and which are used in the laundry-soap industry, in manufacturing, remain upon the free list; that as far as our trade is concerned it certainly would not be a revision downward if these items which have been upon the free list in all tariff acts both Democratic and Republican were now taken off the free list and a duty imposed upon them.

Mr. HARRISON. Will you state what those articles are?

PARAGRAPH 639—OILS.

Mr. WADHAMS. I have prepared at your request, Mr. Harrison, and at the request of Mr. Kitchin, a table showing all the articles used by laundry-soap men, with those upon the free list plainly marked.

Table showing raw materials used in the manufacture of common laundry soaps.

[Giving percentages which each material bears to the total weight of raw materials used, present duty, proposed under H. R. 20182, and recommendations of the laundry-soap industry.]

MATERIALS MENTIONED IN PRINTED BRIEF CONCERNING WHICH A RECOMMENDATION HAS BEEN MADE.

Material. ¹	Approximate percentage of total weight of raw materials. ²	Duty under Payne-Aldrich law, 1909.			Duty proposed under H. R. 20182.		Recommendation.
		Schedule.	Paragraph.	Duty.	Paragraph.	Duty.	
Tallow.....	<i>Per cent.</i> 25-60	G.....	290	½ cent pound	(3)	(3)	Free.
Oils:							
Coconut.....	10-40	Free list...	639	Free.....	50	½ cent pound	Do.
Palm.....	15-60	...do.....	639	...do.....	50	...do.....	Do.
Palm kernel.....	10-30	...do.....	639	...do.....	50	...do.....	Do.
Soya Bean.....	10-25	...do.....	639	...do.....	50	...do.....	Do.
Olive (for manufacturing purposes).	30-90	...do.....	639	...do.....	50	¾ cent pound	Do.
Gum resin (rosin).....	10-45	...do.....	559	...do.....	37	10 per cent ad valorem.	Do.
Potash:							
Carbonate of.....	0-1	...do.....	655	...do.....	69	½ cent pound	Do.
Hydrate of (or caustic).	20	...do.....	655	...do.....	69	⅙ cent pound	Do.
Essential oils:							
Citronella.....	0.1-0.4	...do.....	639	...do.....	51	20 per cent ad valorem.	Do.
Rosemary or an-thoss.	.1-0.25	...do.....	639	...do.....	51	...do.....	Do.
Cassia.....	.1- .2	...do.....	639	...do.....	51	...do.....	Do.
Caraway.....	.1- .25	...do.....	639	...do.....	51	...do.....	Do.
Aspic or spike lavender.	.1- .25	...do.....	639	...do.....	51	...do.....	Do.
Thyme.....	.1- .15	...do.....	639	...do.....	51	...do.....	Do.
Lemon grass.....	.1- .35	...do.....	639	...do.....	51	...do.....	Do.
Lavender.....	.1- .25	...do.....	639	...do.....	51	...do.....	Do.
Bergamot.....	.1- .15	...do.....	639	...do.....	51	...do.....	Do.
Mace, distilled.....	.1- .15	...do.....	639	...do.....	50	8 cents pound	(4)
Palm rosa.....	.1- .15	A.....	3	25 per cent ad valorem.	51	20 per cent ad valorem.	Free.
Geranium.....	.1- .15	A.....	3	...do.....	51	...do.....	Do.

PARAGRAPH 639—OILS.

Table showing raw materials used in the manufacture of common laundry soaps—Contd.

MATERIALS NOT MENTIONED IN PRINTED BRIEFS AND CONCERNING WHICH NO RECOMMENDATION HAS BEEN MADE.

Material. ¹	Approximate percentage of total weight of raw materials. ²	Duty under Payne-Aldrich law, 1909.			Duty proposed under H. R. 20182.		Recommendation.
		Schedule.	Paragraph.	Duty.	Paragraph.	Duty.	
	<i>Per cent.</i>						
China nut oil.....	5	(³) .....	.....	.....	50	5 cents gallon.	
Corn oil or maize oil....	10-30	(³) .....	.....	.....	(³)	(³)	Free.
Cottonseed oil.....	10-35	Free list....	639	Free.....	90	Free.....	Do.
Linseed oil.....	10-20	A.....	35	15 cents gallon.	50	13 cents gallon.	
Vegetable tallow.....	20-40	Free list....	580	Free.....	(³)	(³)	Do.
Grease, fat, and oils such as are commonly used in soap making.	25-60	...do.....	580	...do.....	49	15 per cent ad valorem.	Do.
Whale and fish oil.....	5-20	A.....	40	8 cents gallon.	49	5 cents gallon.	
Red oil, oleic acid.....	30-90	(³) .....	.....	.....	(³)	(³)	
Silicate of soda.....	1-2	A.....	76	$\frac{1}{2}$ cent pound	71	$\frac{1}{2}$ cent pound	
Caustic soda.....	12-15	...do.....	73	$\frac{1}{2}$ cent pound	71	$\frac{1}{2}$ cent pound	
Soda ash.....	2-8	...do.....	75	$\frac{1}{2}$ cent pound	71	$\frac{1}{2}$ cent pound	
Borax.....	5-5	...do.....	11	2 cent pound	82	Free.....	
Napthba.....	5-10	Free list....	639	Free.....	90	...do.....	

¹ The list of raw materials given in this column contains all raw materials ordinarily used by soap manufacturers. All of these materials, however, are not used in any one formula.

² The percentage given indicates the quantity of each material when such material is included in the formula. The percentages can not be given with exactness for the reason that the quantities differ under different formulas.

³ Not mentioned.

⁴ Free (insert distilled).

This table shows the materials used, gives the percentage each material bears to the total weight of raw materials used, the present duty, the duty proposed under the Underwood bill (H. R. 20182), which passed the House, and recommendations of the laundry-soap industry concerning these several items. You will notice that we have made this table in two divisions. The first division is headed, "Materials mentioned in printed brief, concerning which a recommendation has been made." We filed a brief on the 6th of January with respect to the duty on soap; we filed a brief on the 20th of January with respect to the duty on tallow; we file a printed brief to-day with respect to the duty on the articles which heretofore have been on the free list, so that in the first division of this printed table are the articles concerning which we have made specific recommendations.

The CHAIRMAN. Recommended that they all be put on the free list?

Mr. WADHAMS. That they all remain on the free list; all, with the exception of tallow, which is now taxed one-half cent a pound, which we recommend be placed upon the free list, and with the exception of palma rosa and geranium, which have been reduced under the Underwood bill from 25 to 20 per cent ad valorem, and which we recommend be admitted free.

Mr. HARRISON. You are speaking of all, as if the ingredients of soap making have all been taken off the free list and a tax put on by

PARAGRAPH 639—OILS.

the chemical schedule. Your brief, of course, does not convey that impression.

MR. WADHAMS. I am now coming to the second division of this table. I was just addressing myself to the first division as to which we made specific recommendations. Now, you will notice in the lower division of this table that we have those materials not mentioned in printed brief and concerning which no recommendation has been made in this printed brief. By examining those articles you will find that they contain articles very important to the soap industry, such as cottonseed oil, linseed oil, vegetable tallow, and greases, fats, and oils such as are commonly used in soap making, which were on the free list and which, under the Underwood bill, it was intended, I believe, to leave on the free list, although in regard to greases there must be some doubt, and concerning that I would like to have the opinion of Mr. Harrison.

The items appearing under paragraph 580 of the Payne-Aldrich bill are, under paragraph 491 of the Underwood bill, taxed 15 per cent ad valorem. We think, however, that this is due to an error, because we do not believe it was the intention to make such a change.

MR. HARRISON. Paragraph 49 of the bill mentions the greases upon which tax is laid, rendered oils, and greases, and all combinations of the same not otherwise provided for, 15 per cent ad valorem. It seems to me it specifically answers your question.

MR. WADHAMS. You will find in the present law, under paragraph 580—you will please turn to that—greases found on that list, such as are commonly used in soap making, free of duty.

MR. HARRISON. This bill does not amend that part of the law at all; it only reduces the duty from 25 to 15 per cent.

MR. WADHAMS. It is that portion we wish to call the attention of the committee to, and that should be taken care of.

MR. HARRISON. It stays as it is, and no mention has been made of it.

MR. WADHAMS. Would you so leave the law? If a new law was drafted, with that clause in it, and the other was not mentioned, would it not supersede the old law because specifically mentioned?

MR. HARRISON. No. This is only an amendment to the existing tariff law, and it does not amend any part of the law which is not mentioned in the amendment.

MR. WADHAMS. That is the way we had the printed table first printed, and then, fearing that the new designations might be deemed to cover these greases which had previously been on the free list, we called attention to the provision in the Underwood bill so that there might be no obscurity as to our position, that we desired that they remain upon the free list.

In regard to the rest of the items appearing upon the lower half of this printed table, you will observe that there was a reduction in the bill passed by the House last year as compared with the Payne-Aldrich law, and the reason that we had not mentioned these items specifically in our printed brief was that we assumed it would be the intention of a majority of this committee to carry out the intention as expressed in the Underwood bill. Inasmuch as there are reductions suggested in that bill upon those items, we were willing to rest upon the proposition that those reductions would be made. If, how-

PARAGRAPH 639—OILS.

ever, it was necessary to call attention to our position with regard to those matters, we wish to have it distinctly understood that as far as our trade is concerned we recommend that no higher duty be placed upon the items than were recommended in the Underwood bill, as far as those items which appear upon the lower half of the page are concerned.

In that connection I recall Mr. Harrison's statement at the time he reported the Underwood bill that there had been a general reduction as far as the total percentage was concerned upon materials used by the manufacturers of laundry soaps, and of course items like the item of tallow and these greases did not appear at that time, because the revision of the agricultural schedule was not contemplated and they were not included in his total upon which he made his estimates. The point that we make specifically is that though there is a reduction of a quarter of a cent or a half a cent upon some of these items appearing in the lower section the effect of that does not overcome the disadvantage to us in regard to the other items. It does not counterbalance that effect.

Mr. HARRISON. Of course, as a representative of the soap manufacturers, your opinion is entitled to a great deal of weight in that respect, but I just wish to put upon the record the general effect taken from your own brief of the rates proposed by the Underwood bill upon soaps. In the first place, you mention tallow. Of course that was not included in the chemical schedule; that belongs in the agricultural schedule, upon which no revision has yet been reported. When it comes to the tax upon oil, we did place a tax which amounted to an ad valorem equivalent to 3 or 4 or 5 per cent upon coconut oil, palm oil, and palm-kernel oil, etc., that you have spoken of here, and those being products not produced in the United States, it is evident that that was not a protective tax and was laid merely for revenue purposes, and according to our estimates would prove to be a very large revenue producer.

As to gum rosin, I am frank to say that a decision of the Court of Customs Appeals, which occurred after the bill passed the House, would reverse my judgment as to the way in which that word should appear in the tariff bill. So far as I am concerned individually I think that gum rosin ought to be upon the free list. The tax laid upon carbonate of potash—it was expected that duty of half a cent a pound, which amounted to about 14 per cent, would produce about \$42,000 worth of revenue; and the tax laid upon caustic or hydrate of potash does not refer to the potash refined in the way in which the soap manufacturers use it, and under the similar phraseology, the duty of six-tenths of a cent on caustic potash in sticks was expected to produce about \$37,500 worth of revenue. The other materials used in the manufacture of soap upon which taxes were laid were the essential oils, which you have spoken of. The kind of soaps of which essential oils are an ingredient are perfumed and toilet soaps, and it seemed to the committee that the essential oils, in view of the limited use to be made of that kind of soap, were a fair subject of tax. Coming to the materials which you have enumerated here in your brief as reductions in the Underwood bill, I will read the one paragraph in which I referred to this in the House:

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The bill mentioned a reduction upon articles which enter into the manufacture of soap. The second most important material is caustic potash, which we have cut from one-half to one-quarter of a cent, the soda ash from three-quarters to one-eighth, the borax from 2 cents to one-eighth of a cent, castor oil from 25 cents to 20 cents, sodium silicate from three-eighths to one-eighth of a cent, talcum from 35 to 15 per cent, and linseed oil from 15 to 13 cents.

An endeavor was made to reduce the cost of manufacturing soap, and the only issue that you have, as I take it, with the committee is that we impose a tax upon coconut and the essential oils, but they are just low revenue duties and were put on only for that purpose.

Mr. WADHAMS. Do I understand that the potash mentioned here, corresponding to the hydrate or caustic potash as defined in your bill, would not apply to those grades used in common laundry soap?

Mr. HARRISON. No; I did not mean to convey that impression, but the rate proposed upon caustic or hydrate potash, refined, 1 cent a pound, is the same rate as contained in the present law. You use the refined caustic potash and not the hydrate potash; is that correct?

Mr. WADHAMS. That is correct. Of course, some of those items that you have read are not used in laundry soap.

Mr. HARRISON. Neither are the essential oils that you have mentioned.

Mr. WADHAMS. The essential oils are used in common laundry soap, not to make a perfumed soap, but to overcome the smell of the tallow.

Mr. HARRISON. What per cent would be used?

Mr. WADHAMS. It is shown in the table there, in the first column.

Mr. HARRISON. One or two per cent?

Mr. WADHAMS. It is a very small per cent.

In order to answer Mr. Kitchin's previous question more definitely and in connection with this table we have prepared for the use of this committee two common formulæ of laundry soap. You will observe that the first column gives the approximate percentages or total weight of raw materials. They vary, of course, largely, and you will observe the footnote states that the list of raw materials as given in this column contains all raw materials ordinarily used by soap manufacturers. All of these materials, however, are not used in any one formula. The percentage given indicates the quantity of such material used when that material is included in the formula. The percentages can not be given with exactness for the reason that the quantities differ under different formulæ. Therefore, in order that the relative importance of these various items might appear in answer to Mr. Kitchin's inquiry, we have prepared a formula of common yellow laundry soap, and one of the common laundry soap of the white variety, and they give here the percentages in dollars; that is to say, we have given the total cost of 100 pounds and the percentage of that which each item bears in the formulæ.

Mr. HARRISON. We will be very glad to have you insert the formulæ at this time.

Mr. WADHAMS. We will do so.

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The formulæ referred to are as follows:

White laundry soap.

Cost of materials and labor in finished product, \$4.47 per 100 pounds:	Per cent.
Nut oils (straight).....	46. 2858
Seed oils (net), glycerine deducted.....	28. 0747
Saponifying alkali.....	3. 4407
Water softening elements (soda ash).....	3. 1440
Perfume.....	. 5794
Boxes.....	5. 2685
Wraps.....	2. 0287
Labor.....	11. 1782
	<hr/> 100. 0000

Yellow laundry soap.

Cost of materials and labor in finished soap, \$4.04 per 100 pounds:	Per cent.
Tallow (net), glycerine deducted.....	46. 1365
Seed oil (net), glycerine deducted.....	16. 1241
Rosin.....	11. 6367
Saponifying alkali (caustic soda).....	4. 0615
Water softening elements (soda ash).....	. 4716
Perfume.....	1. 0192
Boxes.....	4. 9586
Wraps.....	2. 3426
Box labels.....	. 1369
Labor.....	13. 1123
	<hr/> 100. 0000

Mr. JAMES. What effect will the rates proposed in this bill have upon the price of soap to the consumer?

Mr. WADHAMS. We have calculated that and it is a fraction of a cent per pound. Not having fractional cents in this country, and the price in the grocery trade for many, many years of those soaps being two for 5 cents, or 5 cents a cake, according to the size, you can not make a charge of a fractional cent to the consumer. It is not likely, although it may possibly become necessary to increase the price if duties are imposed. But it is not likely the price will be increased. The effect will probably be a reduction in the size of the cake of soap, which of course is another way to make a higher price.

Now, the calculations that we have made show that, according to the various formulæ that may be used, there is, approximately, I will say, about a quarter of a cent a cake would be the cost of these duties, but I can not state that with definiteness because it depends upon the formula and the market price at the time, and whether all the ingredients are used in any one combination.

Mr. JAMES. You say they have been selling this soap two cakes for 5 cents for a long time. Have they reduced the size of these cakes any in the last few years?

Mr. WADHAMS. No; the size of the cakes has been maintained, I understand. Of course, I suppose that individual manufacturers may differ somewhat in that regard. While you have the—

Mr. LONGWORTH (interposing). Is tallow used in all laundry soaps?

Mr. WADHAMS. Tallow is the ordinary basic material used in laundry soap, where it is a tallow soap, but tallow is not necessarily used in all laundry soaps, as shown by one of the formulæ which I

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have given you there. Very generally, in wide sections of the country, particularly in hard-water sections of the country, it has been found that an oil soap is preferable to a tallow soap because of its superior lathering qualities. Undoubtedly anybody manufacturing tallow soap could make you an argument to show that was superior for some purposes. I have given you the formulæ here for both kinds, and I have shown them particularly in view of an impression which I wish to correct, and which it is very important to have corrected, namely, that coconut oil is used only in the higher grades of soap. That is not correct.

Mr. LONGWORTH. What I want to get is just what common laundry soap is, generally speaking. Is it a tallow or an oil soap?

Mr. WADHAMS. It is both.

Mr. LONGWORTH. And certain manufacturers make a tallow soap, and certain others an oil soap?

Mr. WADHAMS. I have them here, if you would like to see them.

Mr. LONGWORTH. Do you, for instance, make both?

Mr. WADHAMS. The Babbitt Co. make a tallow foundation soap.

Mr. LONGWORTH. Take Procter & Gamble?

Mr. WADHAMS. They make both. I think a great many manufacturers make both. In fact, this industry is very largely scattered. If you inquire of your own constituents, you will find, probably in your own locality, a little soap factory doing its own business and having a distribution of only a few miles. It is all over the country. It is not concentrated in any one hand nor any combination of manufacturers. I have given a table there showing the number that were reported by the census and their distribution by States, the amount of capital invested, all the way from little companies with not more than \$5,000 capital. There are 101 of them.

Mr. JAMES. Have you any information that you can give the committee as to the effect that the tariff bill passed by the House would have upon the high-priced soaps and of the proportion of this increase that you claim would be upon the high-priced soaps, upon the perfumed soap?

Mr. WADHAMS. No; we have nothing to do with that. The company which I appear for, the Babbitt Co., is an old manufacturing soap company, but they do not make perfumed soap. They are old manufacturers of common laundry soap, the ordinary soap used for household purposes in this country.

Mr. JAMES. Well, then, you may have nothing to do with it, but it is important for the committee to know. It might be that these rates here that you complain of would apply to that character of soap that ought to pay a revenue to support the Government.

Mr. WADHAMS. In that connection, if it may please the committee, the man who wants the fancy imported soap is going to pay for it if he wants it, and he will pay \$1 a cake for it if he wants it that much. As far as we are concerned, if the committee desires to get a revenue on real fancy soap like the imported fancy toilet soaps, there is no objection on our part.

Mr. HARRISON. Mr. Wadhams, after considering the whole matter and after hearing a recital of the soap materials upon which the duties were reduced by the bill, is it not your opinion that if the bill

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became a law it would cheapen the price of the manufacture of soap rather than raise it?

Mr. WADHAMS. No, sir; it is not my opinion, and for this reason. It is the point that I have been trying to make clear, and probably I have not succeeded in doing so, undoubtedly have not, by reason of your question. My reason is this: It will not necessarily follow that the items here in the lower half of this table which we have just put in evidence, upon which there are these reductions suggested, it will not necessarily follow that these reductions would so cheapen those articles to us—that is, our raw materials—and that that saving would overcome the expense to us which would immediately follow by placing a duty upon articles now upon the free list, and which would be immediately increased in price by the duties placed upon them.

Mr. HARRISON. It amounts to 3 or 4 per cent in the case of coconut oil and palm oil, 3 or 4 per cent ad valorem.

Mr. WADHAMS. It would be a fourth of 1 cent a pound, or 12 cents a box, on those oils alone.

Mr. HARRISON. That represents 3 or 4 per cent at the customhouse?

Mr. WADHAMS. Yes; it would be an enormous tax.

Mr. HARRISON. An enormous tax upon an industry which produces over \$100,000,000 worth of soap in the United States and exports \$5,000,000 worth?

Mr. WADHAMS. If we use these figures we have got to consider the formula, and if we use that in a 2,000,000,000-pound production it would make an enormous increase.

Mr. HARRISON. Well, now, I want to ask you regarding my statement that tallow had not been revised because it is in the agricultural schedule, on which the committee has not yet reported a bill. Supposing that tallow was put upon the free list, and gum resin was restored to the free list, as it was meant to be, wouldn't the other features of the bill, combined with those facts, make the price of manufactured soap cheaper than it now is, as regards raw materials?

Mr. WADHAMS. The room has a great many practical men from these different plants here, and after conferring with them I reply that it would not, as you would anticipate; for the reason that there is—as things stand now, there is no tallow or gum resin imported.

Mr. LONGWORTH. Now, isn't that just the point here, Mr. Wadhams, that these articles which Mr. Harrison refers to are produced in this country, all of them (or most of them), and that the revision of the duty will not necessarily reduce the profits; whereas these oils are not produced in this country, and the duty will necessarily affect the price?

Mr. WADHAMS. Necessarily, it is a matter of market. And that is the point with these other articles we were speaking of; it does not have an immediate effect on them.

Mr. KITCHIN. Not necessarily.

Mr. WADHAMS. No.

Mr. HARRISON. Well, why, then, did you appear before the committee and ask to have tallow put on the free list, if it would have no effect?

Mr. WADHAMS. I did not quite say there would be no effect; I said there would be no immediate effect on the business. And when I

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appeared before the committee I stated (and it is so stated in our brief) that the principal or chief reason for wanting to have tallow on the free list is that it would have a leveling and a steadying effect on the market; and it would leave us free besides. The tallow business being concentrated in the hands of a few, we would get an opportunity to share in this foreign market. I called attention to the production in Argentina and that the half-cent tariff shut out that territory—

Mr. KITCHIN. Well, do you know what the exports of soap are?

Mr. WADHAMS. I do, and I have stated them before this committee—stated them at the first hearing.

Mr. HARRISON. Will you state them again, Mr. Wadhams? Oh, well, I will read them from a Treasury report here. According to this report, \$4,524,000 worth of soap of various kinds were exported abroad the past fiscal year.

Now we will return to the question of the cost of materials of manufacture, and will consider these formulæ which you handed me.

Mr. WADHAMS. Have you read me the correct figures?

Mr. HARRISON. These are the figures of the Treasury reports, and show that \$4,524,000 represents the exports of manufactured soap.

Mr. WADHAMS. That is only the laundry soap in your figures?

Mr. HARRISON. Well, that's the manufactured or complete soaps made from tallow, or manufactured soap of any such kinds, put at \$1,840,000; so that the other soap not on that list would be \$2,684,000.

Mr. WADHAMS. Well, now, Mr. Chairman, I wish to call your attention to the fact that we export large quantities of "saponin foots," as they are called, and they go abroad and are employed abroad in the manufacture of soap; so that the foreign manufactured soap is—

Mr. KITCHIN. It is not imported.

Mr. WADHAMS. I say that these totals of exports of manufactured soap should be diminished by the quantity of such "foots"; I mean for a proper analysis.

Mr. HARRISON. The fact that your foreign competitor has to go to America to get his manufacturing materials shows what a disadvantage he is under with you in competing with the world's markets; does it not, Mr. Wadhams?

Mr. WADHAMS. No; he buys from others. First, I want to get those figures and to make some little comments. Of course, we admit we are an exporting people. But at the same time I would invite attention to possible inaccuracies in the use of those figures, for they will not show you as much as they appeared at first, because they contain this large quantity of "foots," which is not manufactured soap; secondly, because they include very large exports to Panama, Cuba, and the Philippine Islands.

Mr. HARRISON. That would not be reckoned as exports.

Mr. KITCHIN. To the Philippine Islands?

Mr. WADHAMS. Well, here they are; they are included—included in the total given.

Mr. KITCHIN. Let's see what you have got on it.

Mr. Wadhams here stepped up before Mr. Kitchin and showed him the matter which he had been reading.

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Mr. WADHAMS. I beg your pardon, Mr. Harrison, for diverting. I was simply doing so in order to show that the total was clearly a combination and not entirely laundry soap, and I thought that should be taken into consideration. I appreciate that we are an exporter of soap, but would like to call your attention to this further fact—that we export very little soap comparatively, this manufactured soap, common laundry soap. Of interest on the point we are talking about is what may go to the European countries. There is only one brand—there is only one brand of this common laundry soap that is imported in any large quantity into France, Germany, or Great Britain—one brand.

Mr. FORDNEY. What brand is that?

Mr. WADHAMS. Fels-naphtha. And I think that that ought to be taken into consideration. However, we have received—

Mr. KITCHIN. Well, I will say here that, speaking about the soap imported to the Philippine Islands, that is almost infinitesimal; most of the soap, or very large quantities, go to England, Scotland, and in fact I see here \$784,000 worth went to England, and altogether to the United Kingdom a little over a million dollars' worth, while there went to the Philippine Islands only \$96,000 worth.

Mr. WADHAMS. Yes; those foots are export articles.

Mr. KITCHIN. They are not foots.

Mr. WADHAMS. This includes foots; it doesn't say so.

Mr. KITCHIN. Well, the statistics show that it is manufactured soap that is exported.

Mr. WADHAMS. It would show as a soap base.

Mr. KITCHIN. Well, Mr. Wadhams, what company do you represent?

Mr. WADHAMS. The B. T. Babbitt Co. At present on this hearing I also represent about 75 per cent of the laundry-soap companies.

Mr. KITCHIN. How much does that concern export?

Mr. WADHAMS. We do not export any to Great Britain; we do some to the West Indies—manufactured soap.

Mr. KITCHIN. You don't really know whether or not most of it is exported, do you?

Mr. WADHAMS. Oh, yes.

Mr. KITCHIN. How much did they tell you is exported to Great Britain—this company?

Mr. WADHAMS. None by the one company that I represent. Let me say that as to these 75 per cent of the soap manufacturers, I am unable to answer that; I never knew it.

Mr. KITCHIN. You never looked into that part of it, did you?

Mr. WADHAMS. I don't know; I haven't inquired; but in the case of a great many of these companies it is true that the exports of common laundry soap are, to the European countries, practically negligible; and that Fels Naptha is the only one that we export to any of them in any quantity.

Mr. KITCHIN. Well, there is nearly \$1,000,000 worth exported to Great Britain out of the \$2,684,000 exported last year. You will find that expressed there; toilet and fancy soap in one column, and I think that all other soap, such as yours, is in the other column.

Mr. WADHAMS. Now, the answer to that is this. I am giving you the facts just as far as I can dig them up.

Mr. KITCHIN. I believe that.

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Mr. WADHAMS. They import into Great Britain and the United Kingdom other soaps, and it leaves, as far as I can find out, Fels Naptha soap and textile soap. I know that these other laundry companies, laundry-soap makers, do not export their laundry soap in any quantity to Europe.

Mr. KITCHIN. What material costs more in the manufacture of yellow soap than anything else; do you know?

Mr. WADHAMS. Yes. Tallow.

Mr. KITCHIN. How about that formula?

Mr. WADHAMS. Well, that's shown in the formula. May I have that?

Mr. KITCHIN. Tallow is one of the most expensive ingredients?

Mr. WADHAMS. Tallow constitutes 46 per cent of the cost, in value.

Mr. KITCHIN. In value?

Mr. WADHAMS. Yes.

Mr. KITCHIN. Now rosin, how much?

Mr. WADHAMS. Rosin, 11 per cent.

Mr. KITCHIN. Well, practically 60 per cent; 60 per cent on the cost product. Now, take your 11 per cent; labor so much. About 90 per cent of your material is tallow and rosin.

Mr. WADHAMS. Not 90 per cent tallow; no, 46 per cent tallow.

Mr. KITCHIN. Well, 90 per cent of your material is tallow and rosin.

Mr. WADHAMS. Well, here it gives it. Labor in this particular one is 13 per cent; boxes are approximately 4.9 per cent, call it 5 per cent; the wrappers on the soap, 2.3 per cent.

Mr. KITCHIN. Well, call it 2; that's 20. Well, now, this leaves less than 20 cents on the dollar for material, other than the material we are talking about now.

Mr. WADHAMS. That's 80 cents for the material.

Mr. KITCHIN. And the 46 cents comes in; and of that 80 cents 46 cents is tallow and 11.6 per cent is rosin. That's about 60 cents. So, only 20 cents out of the whole is this material on which the tariff was raised in the Underwood bill. And 60 cents on the dollar is tallow and rosin. Now, suppose rosin and tallow are put on the free list; I don't know that it will be. Suppose they are put on the free list, with the tariff remaining on these other articles under the Underwood bill, wouldn't you then have cheaper material than you have now?

Mr. WADHAMS. Well, I have tried to explain that. In my opinion we would not immediately, for the reason that if you take off the duty on tallow and such materials it has merely a steadying effect. They are not imported, but these other articles that are imported into this country are in a different category, and additional duty on them would increase the cost of such materials right away.

Mr. KITCHIN. Well, not imported because perhaps the tariff is so high.

Mr. LONGWORTH. Well, that's the present ad valorem.

Mr. KITCHIN. Oh, putting it in and making it fool some of the tariff makers, and making them see that.

Mr. WADHAMS. Now, that is the point, Mr. Kitchin, if I make myself perfectly clear.

Mr. KITCHIN. I want to get the facts; I don't know myself.

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Mr. WADHAMS. This is the point. A reduction of duty on the articles which are made in this country may stimulate imports in time, but does not necessarily reduce the price. These articles are made at home; we can get them here. But these other articles, which it is proposed to take off the free list, we can not produce at home. We are obliged to import them and a duty on such articles immediately increases the price. We couldn't stand it. They are basic raw materials. It may put us out of business, or you couldn't expect the company to give the quality of soap at the same price. We want them to remain on the free list.

Mr. KITCHIN. Haven't you observed that when a tariff is put on an article the title of which is manufactured here some of that tariff does enter into the price? Isn't it true on that laundry soap?

Mr. WADHAMS. We don't think so in our case, and that's the reason we have a particular right to appear here and urge our point with vehemence; we think we can do this for these reasons. There are two very decisive political reasons: We are not a combination; we are not a trust; we are a competitive industry, and I think competitive industries should be favored by the tariff, for we have entered into no combination, agreement, or trust; we have established no oppression; we are an independent industry; and I think such an industry should have favorable consideration as compared with those who have combined to oppress the people. We are in every market, fairly trying to capture it and maintain the business we acquire.

And the second reason is that we haven't added one iota to the high cost of living. I want to say that the soap industry has grown since B. T. Babbitt, the pioneer soap manufacturer, in days long gone by, started it. But, as Congress knows, the same price has for many years been charged to the consumer for a cake of laundry soap.

Mr. KITCHIN. You mean the same price, that is right perhaps; but you don't mean the same size?

Mr. WADHAMS. Why, larger all the time, if anything—as large or larger, I should say.

Mr. KITCHIN. No. It was found in the investigation by a committee in Chicago in 1910 that each cake of soap was a good deal smaller than formerly.

Mr. WADHAMS. No, Mr. Kitchin. May I correct you?

Mr. KITCHIN. You ask your soap manufacturers if they have not been made smaller in the last 10 years, won't you? Yes; even the little 5-cent cracker box contains fewer crackers than a few years ago.

Mr. WADHAMS. Well, this isn't a cracker box.

Mr. KITCHIN. Well, the cake is smaller than it was 10 years ago, and all the manufacturers must know it. Boys, be square with us.

Mr. PAYNE. That grandfather's soap was soft soap.

Mr. WADHAMS. No; the fact is, you get as much value, and I think a great deal more, for the reason that the art has been greatly improved.

Mr. KITCHIN. No, indeed; not as regards size. I am talking now about size.

Mr. WADHAMS. That is what I said; as large, not excepting quality. It is a question of getting as much in weight for the price paid.

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Mr. KITCHIN. I ask you to propound it to your soap manufacturers and ask them if they will swear that soap has not been reduced in size any time in the last 10 years; you will find they won't swear to it.

Mr. WADHAMS. Not any time in the last 10 years? Well, it may have been reduced only for a time; on account of the very high cost of materials it was, perhaps, reduced.

Mr. KITCHIN. No; it is much smaller now than when I used to go and buy it; not as large now as when we bought it five years ago.

Mr. WADHAMS. You didn't get so good or so much soap.

Mr. KITCHIN. Oh, as to the better quality, I don't know about it; but it is a smaller average size now.

Mr. WADHAMS. Well, without dwelling on it any further I would simply like to call attention to the fact, on behalf of the laundry-soap manufacturers, that from the use of soft soap the art has been developed into the best soap, laundry soap, in the world. Your own report, which was prepared for Schedule A, shows that the highest grade and best laundry soap in the world is made in the United States. The price of that has not been increased, and for that reason we think we are particularly entitled to appeal to your committee.

Mr. JAMES. Your position is that the Democratic Party is going to clean up the country—

Mr. PAYNE. They used soft soap last fall.

Mr. WADHAMS. I would like to suggest this further point—that no manufacturer comes here with cleaner hands than we.

Mr. HARRISON. Well, suppose further we were to put tallow on the free list, and leave gum resin on the free list and hydrated potash. Under those circumstances would your clients be willing to have laundry soap go on the free list?

Mr. WADHAMS. Well, I notice that you didn't mention essential oils.

Mr. HARRISON. Well, because I am not willing to concede that essential oils are not a considerable part of the manufacture of laundry soap.

Mr. WADHAMS. We do not oppose the reduction proposed in H. R. 20182 on laundry soap. Now Mr. Harrison asks whether we would be willing to accept the proposition just made by him—as I understand for the purpose of getting our attitude. We have stated objection to taking that step all at once. We are not prepared to say that under trade conditions as they exist, if the tariff were removed altogether, that our country would not be, with the aid of foreign Governments, flooded with foreign soap; and for this reason, one of the reasons—one of the reasons is that the "through haul," as it has been interpreted, including the ocean freight plus an inland haul, I am informed enables the foreign competitor to lay down the manufactured article of soap in the interior at a less freight than we can move it for from the seaboard to the interior.

Mr. KITCHIN. I think the Interstate Commerce Commission has got charge of that now.

Mr. FORDNEY. Not only that; they have no power to regulate that foreign rate.

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Mr. WADHAMs. My understanding, Mr. Kitchin, is that under the present condition of the law and the rulings of the Interstate Commerce Commission you can't compare one leg of a through rate with the movement over the same distance as an entire haul. In the same way the ocean rate may be combined, with the result mentioned. But that is not the only reason I would state, because it is possible to be corrected by legislation or otherwise if those conditions arise. But we can not undertake to say that we would be in a position, with no tariff, all at once to compete, and we think that the proposed reduction is adequate.

Mr. LONGWORTH. Don't you realize that Mr. Harrison's proposition is on the old theory that the dumb man, if you give him plenty to eat, and dress him up, and perfume him highly, will die happily?

Mr. WADHAMs. Now, I appreciate the difference in political attitude that prevails in this committee; but I assume that the people at the last election decided the tariff issue. And I may say that with a spirit of acquiescence I beg leave to address myself to the proposition which the committee has before it. In order to produce this revenue, Mr. Chairman, you will have to determine upon what shall the burden be placed.

I have been here various days. I have heard men, I think, talking about Columbia records and Thermos bottles and about a great variety of articles made in this country. Now, when you come to place the burden, isn't it a fair proposition for us to say that under our trade conditions and the uses to which our article is put as a common staple ours is not an industry that ought to bear this burden? It is all a question of relative degree; and I understand that every man comes here fighting for what he wishes to have. But isn't it a fair proposition that this industry, this common laundry soap, shall not be burdened?

Mr. HARRISON. We think it will relieve rather than increase your burden.

Mr. WADHAMs. We, I think, appreciate what you have done as far as you have gone. But we want to make clear, if we can, that this free list has always contained these materials used by us. Our industry has been built up upon it and should not be burdened with a duty as far as the articles are concerned that go into this necessity of life, and it ought not to be.

Mr. JAMES. What was the condition imposed by the Payne-Aldrich tariff bill as compared with the Dingley bill on these articles that go into manufactured soap?

Mr. WADHAMs. Yes, sir; I have it right here. You have prepared a table which appears at page 280 of the report on Schedule A, 1912 print.

Mr. JAMES. Well, I mean does it show an increase or decrease? You figured it out here as to the effect of the bill that passed, the House bill 20182, as compared with the existing law.

Mr. WADHAMs. Exactly; we have.

Mr. JAMES. Now, have you made such a comparison between these two laws?

Mr. WADHAMs. No; I didn't, because it was in your own report, at page 280, practically the same.

PARAGRAPH 639—OILS.

Mr. JAMES. Is there any increase in the Payne law, or any decrease?

Mr. WADHAMS. Some slight decrease.

Mr. JAMES. Well, they had to allow it to remain the same duty on the finished article?

Mr. WADHAMS. It has remained the same; I think it has remained the same—that is my impression.

Mr. JAMES. You needn't take the time to locate it; that's all right.

The CHAIRMAN. Mr. Harrison asked you a question just now, Mr. Wadhams, if we take off all these taxes except essential oils, all these other things, tallow and so on, you said your industry wasn't willing to say it should go to the free list at this time. What further reduction could we make in the rate as proposed in the schedule?

Mr. WADHAMS. That is a very difficult question to answer, for this reason: There might be some slight further reduction, although our industry feels that a reduction of 5 per cent is adequate for a first move. And if we knew that by stating some particular figure we could be pretty sure about its being adopted, we would be better able. But the trouble is, I am afraid they may misinterpret it, as they might say, "Well, if they are willing to take that, why not give them something more?" It is a somewhat embarrassing position for us to be in.

The CHAIRMAN. We don't wish to embarrass you at all, Mr. Wadhams; but what we are looking for is a right and equitable adjustment with everything the same way for the best interests of all. This is a necessity of life, and we would like to, if we can make concessions by putting things on the free list, we want to know what is going on with the consumer.

Mr. WADHAMS. I would like to call your attention to one other thing—that it is hard for us to meet competition. As I said first, any duty on the ingredients of the soap, on the gum resin, etc., will make it a hardship. England put a duty of 35 per cent on transparent soap to protect Pears soap. Pears is a transparent soap, and they have attempted to bring this soap into this country as a laundry soap; but our Government decided against it.

Mr. HILL. Do we have a corresponding internal-revenue tax on Pears soap?

Mr. WADHAMS. I do not know as to that. But I would like to say or wish to call your attention to the fact that in case there is any effort made to include that among laundry soaps—

The CHAIRMAN. Well, certain classes of soap are distinctly a luxury as distinguished from Pears soap, and there would be no reason why we shouldn't get all the revenue we can out of that which is strictly a luxury. But this is a necessity of life perhaps calling for some reduction; and I think we ought to do it, if we can feel that we are giving you the benefit of a matter that is going on down to the consumer.

At this point Mr. Wadhams submitted some samples to the chairman.

Mr. WADHAMS. These samples are submitted as showing that some of these are largely of tallow, or tallow-base soaps; and some of them

PARAGRAPH 639—OILS.

are white, or nut-oil base soaps, and they are all of them common laundry soaps.

The CHAIRMAN. Now Mr. Wadhams has been on the stand an hour; and I believe we must move along with the other witnesses.

Mr. WADHAM. I beg to say, gentlemen, that I appreciate your consideration.

The brief filed by the witness follows:

WASHINGTON, D. C., January 31, 1913.

*To the Chairman and Members, Committee on Ways and Means,
House of Representatives, Washington, D. C.*

GENTLEMEN: This statement is submitted on behalf of laundry soap manufacturers of the United States, representing over 75 per cent of the production of common laundry soap.

The items and paragraphs concerning which recommendations are made are:

FREE LIST.

Paragraph 639: Coconut oil, palm oil, palm kernel oil, soya bean oil, and essential oils—now on the free list.

It is recommended that these articles remain on the free list.

Paragraph 3 (Schedule A): Oil of geranium, and palma rosa—present duty 25 per cent ad valorem.

It is recommended that they be placed upon the free list.

Paragraph 655: Carbonate of potash, hydrate of or caustic potash—now on the free list.

It is recommended that they remain upon the free list.

Paragraph 559: Gum resin (rosin)—now on the free list.

It is recommended that it remain upon the free list.

THE REASONS FOR SUCH RECOMMENDATIONS ARE:

The laundry soap manufacturers have stated that they do not oppose a reasonable revision of the tariff downward, and that they would not interpose objection to a reduction as proposed in H. R. 20182, from 20 to 15 per cent ad valorem duty on laundry soap, provided the raw materials used by them are allowed to remain on the free list and are not taxed as was proposed in H. R. 20182. (See brief on behalf of laundry soap manufacturers relative to Schedule A, paragraph 69, dated January 6, 1913.)

The various articles named will hereafter be discussed. They are now with few exceptions on the free list and are all used as raw materials in the manufacture of laundry soap.

We respectfully submit that a tariff should not be imposed upon these raw materials, but that they should remain on the free list for the following reasons:

FIRST. LAUNDRY SOAP IS A NECESSARY OF LIFE.

It is submitted that there should be no increase in duties on such raw materials for the reason that laundry soap may fairly be classed as a necessary of life. The imposition of a duty upon these free-list articles would tend to increase rather than decrease the already burdensome cost of living, as manufacturers would be obliged to increase the price to the consuming public.

Although designated as laundry soap to distinguish this article of commerce from the highly perfumed and delicate soaps used exclusively for toilet purposes, it should be borne in mind that the common laundry soap is the household soap of the people and generally used by them for personal and all household purposes.

There are about 20,000,000 families in the United States. The experience of the soap manufacturers indicates that approximately 100 pounds of laundry soap is used by each family a year. In other words, that approximately 2,000,000,000 pounds of laundry soaps are consumed annually in this country. It is a staple, necessary household article.

It is reported that about 5,750,000 families have an average income of less than \$400 per year, about 3,800,000 families have an income of between \$400 and \$600, and about 3,800,000 families have incomes from \$600 to \$900 per annum. Thus about 65 per cent

PARAGRAPH 639—OILS.

of our people are to-day receiving incomes not exceeding \$15 per month per individual. These are the families which use laundry soap almost exclusively for all purposes. Is it reasonable to impose additional burdens upon such incomes?

SECOND. LAUNDRY SOAP IS SOLD UNDER HIGHLY COMPETITIVE CONDITIONS.

The laundry soap business has been built up as a highly competitive industry scattered throughout the United States. There is no soap trust nor combination of soap manufacturers.

The soap industry is not only divided among a large number of manufacturers, but these manufacturers are widely separated and will be found in all parts of the country. There is no one concern which dominates the trade, but each is in the keenest competition with the others. There is no territorial division of the market, neither is there any understanding, agreement, or regulation of the volume of business or of prices.

The number of soap manufacturers in the United States, according to the United States census, is 436. The distribution of the factories in nearly every State in the Union is given in detail in the brief submitted on behalf of the laundry soap manufacturers relative to Schedule A, paragraph 69, dated January 6, 1913, to which reference is made.

The character of the ownership of the 436 establishments is as follows:

Individual ownership.....	146
Firms or partnerships.....	108
Corporations.....	182

The size of these concerns is indicated by the following table of the capital invested:

Less than \$5,000.....	101
\$5,000 to \$20,000.....	103
\$20,000 to \$100,000.....	140
\$100,000 to \$1,000,000.....	79
\$1,000,000 and over.....	13

The keen competition in the laundry soap trade in all sections of the country compels each manufacturer to give the largest possible cake or the best possible quality, or the lowest possible price, or all of these, otherwise his volume of business can not be increased or even maintained. The prices to consumers of the common laundry soaps we are discussing run between 2½ and 5 cents per cake or bar.

THIRD. LAUNDRY SOAP IS THE PRODUCT OF AN INDUSTRY WHICH HAS BEEN DEVELOPED RELYING UPON FREE RAW MATERIALS.

The soap industry has been developed relying upon free raw materials. The price at which laundry soap has been sold for many years has been based upon the cost of these duty-free materials. The cost of the materials used in the soap industry in 1909, as stated in the last census, was \$72,179,000, whereas the cost of salaries and wages combined was only \$11,733,000. The cost of raw materials was, therefore, nearly seven times the cost of salaries and wages combined. We have not been able to find any tariff in which the raw materials now upon the free list ever have been made the subject of an import duty in this country.

To impose a duty upon such raw materials would require a readjustment either in the increase of the price or in the reduction of the size of the cake or bar of soap.

FOURTH. LAUNDRY SOAP IS SOLD AT A PRICE WHICH HAS NOT CONTRIBUTED TO THE HIGH COST OF LIVING.

Both the manufacturers' and the retail price of soap has shown no substantial change for many years, whereas it is a matter of common knowledge that during recent years the prices of other essentials of life have greatly increased and in many cases doubled.

The following are the articles which we recommend be retained or placed on the free list:

COCONUT OIL, PALM OIL, PALM KERNEL OIL, SOYA BEAN OIL (PAR. 639).

It was proposed in H. R. 20182, paragraph 50, to impose a duty of one-fourth cent per pound upon the above oils.

These oils should remain on the free list, where they are now, and, so far as can be ascertained, always have been. They are almost entirely produced in Africa, China,

PARAGRAPH 639—OILS.

and the East Indies. These oils (except soya bean oil, which is of recent importation) were for many years chiefly used in the manufacture of the better grades of toilet and bath soaps. Relying upon the continued supply of these oils duty free, they have been used more and more in the manufacture of common laundry soaps, and they now constitute some of the most important ingredients thereof. The public has reaped the benefit of these improvements. The prices of these oils, however, with their enlarged use, have steadily advanced, and to-day are at a point where it would be impossible to furnish a soap of the present superior quality at current prices if a duty were imposed upon these oils.

Where hard water is used, the use of coconut or palm kernel oil is essential to obtain a good lathering or cleansing soap. This is also true where salt water must be used. So that in large sections of the country and on seagoing vessels soaps made of these oils are indispensable.

Olive oil (rendered unfit for use as food or for any but mechanical or manufacturing purposes).

It was proposed in H. R. 20182, paragraph 50, to impose a duty of three-eighths of a cent per pound upon the olive oil above, which is now on the free list and is one of the elementary raw materials of soaps used in the textile mills.

None of the oils referred to in this statement and used for soap making are produced commercially from products grown in this country.

ESSENTIAL OILS (PAR. 639).

Citronella, rosemary or anethos, cassia, caraway, aspic, or spike lavender, thyme, oil of mace (distilled), lemon grass, lavender, and bergamot.

It was proposed in H. R. 20182, paragraph 51, to impose a duty of 20 per cent ad valorem upon all these oils, with the exception of oil of mace, which will be hereafter separately discussed. These oils have all been heretofore and are now upon the free list.

Believing that the change of classification proposed in H. R. 20182, paragraph 51, is due to a misunderstanding of the nature and use of these oils, we respectfully urge their retention on the free list. They are the essential oils most commonly used in the manufacture of common or laundry soaps to overcome the odor of the tallow, and for this reason, doubtless, were included in the free list in the existing and preceding laws. They are necessary ingredients of the common soaps used by the great mass of the people throughout this country. There is no reason, therefore, why they should be classed with or taxed as luxuries.

OIL OF MACE (PAR. 639).

It was proposed in H. R. 20182, paragraph 50, to impose a duty of 8 cents per pound upon mace oil (oil of mace). The oil is of two kinds, namely, expressed and distilled. The oil of mace used by soap makers is a distilled oil now on the free list, and is of the same general character as the distilled oils above mentioned. It should be included in the same classification. The distilled oil is out of place in paragraph 50 of H. R. 20182, which applies to expressed oils. It is properly included under the present law with other essential oils distilled under paragraph 639.

The proposed duty on expressed oil of mace in H. R. 20182, paragraph 50, is not opposed by the soap making industry, as they do not use the expressed oil. There is danger, however, that paragraph 50 of H. R. 20182, if enacted, may take distilled oil of mace off the free list. It is, therefore, respectfully suggested that in order to straighten this out the word "expressed" be inserted in parentheses after the words "mace oil" in paragraph 50, H. R. 20182, should the language of that bill be adopted, and that the word "distilled" be inserted after the word "mace," as it appears in the free list in paragraph 639 of the present law.

OIL OF GERANIUM AND PALMA ROSA (PAR. 3).

It was proposed in H. R. 20182, paragraph 51, to reduce the duties upon these oils from 25 to 20 per cent ad valorem.

These oils are not specially named in the present tariff, but are dutiable at 25 per cent ad valorem under paragraph 3, Schedule A, as distilled oils, "not specially provided for in this section." The reduction of duty to 20 per cent ad valorem would result from the inclusion of these oils in paragraph 51 of H. R. 20182, covering oils distilled and essential "not specially provided for in this act or in the first section of the act cited for amendment" (the present law).

PARAGRAPH 639—OILS.

These oils also are largely used in the manufacture of ordinary household soaps and should, therefore, be placed upon the free list with other essential oils used for the same purpose and above enumerated.

POTASH (PAR. 655).

Carbonate of potash, crude or refined, hydrate of, or caustic potash, not including refined in sticks or rolls.

It was proposed in H. R. 20182, paragraph 69, to impose a duty of one-half cent per pound upon carbonate of potash, and of six-tenths of 1 cent per pound upon the hydrate of (caustic) potash. These materials are now upon the free list, where they should remain. They are largely used in the manufacture of common soaps and soaps used in the textile industries.

GUM RESIN (ROSIN) (PAR. 559).

It was proposed in H. R. 20182, paragraph 37, to impose a duty of 10 per cent ad valorem upon gum resin (rosin). That bill in imposing such duty did not differentiate between the refined gum resin mentioned in paragraph 20 of the existing law—which imposes a duty of one-quarter of 1 cent per pound plus 10 per cent ad valorem—and ordinary unrefined gum resin (rosin) used for commercial purposes and now upon the free list under paragraph 559 of the existing law. If the language of paragraph 37, H. R. 20182, should be adopted it should be made clear that the duty thereby imposed does not apply to crude resin by the insertion after the words "gum resin" in paragraph 37, H. R. 20182, of the words, "except such as is commonly used for soap making."

The resin used by the soap-making industry is the residue after the distillation of turpentine. It is the crude article not refined, and is properly classed as a raw material, as recently determined by decision of the United States Court of Customs Appeals.

Crude resin is one of the materials used widely in the manufacture of common laundry soaps, and the imposition of a tax thereupon would be a serious matter, especially in view of the conditions of the resin trade in this country. It is generally conceded that the control of the resin market is in the hands of a small number of persons, and that the price has steadily advanced, although the volume or supply to meet the demand has increased.

The exports of this article show that there is no justification for the imposition of the tax proposed upon ordinary unrefined gum resin. The Department of Commerce and Labor furnishes the following statement of exports of resin:

United States exports of resin.

Years.	Values.	Quantities.
		<i>Barrels.</i>
1909.....	\$8,211,650	1,984,525
1910.....	12,373,825	2,209,339
1911.....	16,207,988	2,415,440
1912.....	16,462,800	2,474,460

The ordinary gum resin referred to, which is the residue after the distillation of turpentine, should remain (with turpentine) upon the free list.

EFFECT OF PROPOSED DUTIES ON THE COST OF LAUNDRY SOAP.

Using as a basis the standard box of 100 cakes of 12 ounces each, it is estimated that the increase in the cost resulting from the proposed duties would be:

In the case of coconut oil, palm oil, palm-kernel oil, and soya-bean oil, about 12 cents per box or one-eighth cent per cake.

In the case of the essential oils, about 1 cent per box.

In the case of resin, about 8 cents per box or one-twelfth cent per cake.

PARAGRAPH 639—OILS.

The national conference of soap manufacturers respectfully urges upon your honorable committee that these important ingredients entering into the manufacture of common laundry soaps should be free from duty.

All of which is respectfully submitted.

H. W. BROWN, *of the Procter & Gamble Co., Chairman.*

W. H. WADHAMS, *of B. T. Babbitt, Secretary.*

L. H. WALTKE, *of Wm. Waltke & Co.*

J. R. COLLINGWOOD, *of Fels & Co.*

F. H. BRENNAN, *of the N. K. Fairbank Co.*

Committee of National Conference of Laundry Soap Manufacturers.

DRAFT OF RESOLUTIONS ADOPTED BY ALABAMA COTTON SEED CRUSHERS' ASSOCIATION.

Whereas the cottonseed-oil industry is one of great magnitude, representing investments of approximately \$100,000,000, employing hundreds of thousands of men and distributed over 13 States comprising an area of approximately one-fourth of the entire country; and

Whereas the extra session of Congress to be called soon after March 4, next, is to be devoted principally to revising the tariff law of the United States; and

Whereas hearings are now being held before the Ways and Means Committee of the House of Representatives to afford opportunity for the varied industries of the country to make known their wishes on tariff matters as affecting those industries; and

Whereas the cottonseed-oil industry is deeply interested in the adjustment of tariffs on the raw materials used by it and on those on the finished products made in foreign countries which compete with the American products in American markets; and

Whereas the industry is receiving, with respect to its finished products, discriminatory treatment at the hands of various foreign Governments; and

Whereas the cottonseed-oil industry must depend for protection for its foreign trade upon administrative features of the United States tariff law: Now, therefore

Be it resolved, That the Alabama Cotton Seed Crushers' Association strongly indorses the views set forth in the memorandum hereto attached respecting the needs of the cottonseed-oil industry as to tariffs.

Be it further resolved, That it is the sense of this organization that the matter of providing in a revised tariff law some practical method whereby it will be possible for the United States Government to properly protect the trade of its manufacturing industries in foreign markets is of most serious import and is entitled to receive the most deliberate and careful consideration by the Ways and Means Committee and of Congress.

Be it further resolved, That a copy of these resolutions be spread upon the records of the Alabama Cotton Seed Crushers' Association and that copies be forwarded to each member of the Ways and Means Committee of the United States House of Representatives.

CHAS. A. CANEY, *President.*

Attest:

C. E. McCORD, *Secretary.*

TARIFF REVISION—SUGGESTIONS AND RECOMMENDATIONS.

SCHEDULE A.—Chemicals, oils, and paints.

Caustic soda.—Present duty, one-half cent per pound. The cottonseed-oil industry uses large quantities of alkalis of various kinds, and, inasmuch as it enters as a raw material into the manufacture of cottonseed-oil products, it is desirable there should be secured a reduction in the duty.

Soda ash.—Present duty, one-fourth cent per pound.

Edible olive oil.—Present duty, 50 cents per gallon. Edible olive oil competes with cottonseed oil for all edible purposes, and should, therefore, be given no advantage over cottonseed oil. The strongest reason, however, why the duty on olive oil should not be lowered is that Italy discriminates against American cottonseed oil by imposing a surtax of 20 francs per 100 kilos on American cottonseed oil over other edible vegetable oils, all of which compete to the same degree with the Italian product of olive oil.

PARAGRAPH 639—OILS.

SCHEDULE B.—*Earths, earthenware, and glassware.*

Fuller's earth.—Present duty, crude, \$1.50; wrought, \$3 per ton. If a decrease in duty can not be secured the commodity ought to be left at the present rate.

SCHEDULE C.—*Metals and manufactures of.*

Cotton ties.—Present duty, three-tenths cent per pound. They should go on the free list the same as binding twine for farmers.

Tin plates.—Present duty, 1.2 cents per pound. The article of tin plate is an important one for the cottonseed-oil industry. Any reduction that can be secured in the rate of duty on these plates will be of material benefit, because the item of tin plates for the manufacture of containers for oil is of considerable magnitude.

SCHEDULE G.—*Agricultural products and provisions.*

Soya beans.—Present duty, 40 cents per bushel. If soya beans could be brought in duty free, they could be used to prolong the operating season of the crushing mills and refineries. The oil made from them is becoming a large factor of raw material for soap making. There is no reason why there should be a duty on the beans since the oil crushed therefrom in England and on the Continent is admitted free.

Lard.—Present duty, 1½ cents per pound. The cottonseed-oil industry is opposed to such a proposition, since if the duty on lard were reduced, or if it were placed upon the free list, the result would be to furnish keen competition with edible and cooking fats containing large percentage of cottonseed oil. There is the additional danger, if the duty is decreased, that the American market may be flooded with inferior lard now produced in China in great quantities.

SCHEDULE J.—*Flax, hemp, and jute, and manufactures of.*

Fabrics of jute for fertilizer bags, cake sacks, meal sacks, and hull sacks.—Present duty, seven-eighths cent per pound and 15 per cent ad valorem. The item of fertilizer bags, cake sacks, meal sacks, and hull sacks is of material magnitude in connection with the cottonseed-oil industry. As a raw material the duty should be lowered.

Bagging for cotton.—Present duty, six-tenths cent per square yard. Not only as affecting the cottonseed-oil industry, but as of material importance to the entire cotton industry, free bagging should be had for cotton. There is the same reason for giving southern cotton planters free bagging for their cotton as exists for giving farmers free binding twine.

SCHEDULE K.—*Wool and manufactures of.*

Camel's hair and gray wool for manufacture of press cloth.—Present duty, 7 cents per pound. Press cloth is made in the United States from camel's hair or gray wool or both. A reduction in the duty on these raw materials will probably in turn result in a reduction to the cottonseed-oil industry of the price of press cloth.

Camel's-hair press cloth.—Present duty, 7 cents per pound. The need for the cloth at a fair price appeals to the industry as a reasonable excuse for asking the duty be decreased or removed.

Free list.

Oleo stearine.—Duty free. Oleo stearine is used in large quantities in the manufacture of lard substitutes. The free importation of foreign stearine has acted to prevent absolute control of the price by domestic manufacturers. The cottonseed-oil industry strongly urges the retention of oleo stearine on the free list.

Soya-bean oil.—Duty free. If soya beans are placed upon the free list, there ought to be a duty on the oil. The cottonseed-oil industry urges a duty of one-fourth cent per pound.

ADMINISTRATIVE FEATURES.

The industry strongly urges that in the administrative features of the new tariff, provision be made whereby its trade in foreign markets may be protected. It is on this feature of a tariff law that the cottonseed-oil industry must depend for protection for its export trade.

The "maximum and minimum" provision of the existing law is universally recognized as a retaliatory measure too large to be practically used in isolated cases of discrimination against American products. Absolute breaking off of trade relations

PARAGRAPH 639—OILS.

between the United States and any foreign country on account of isolated cases of discrimination would, in substantially no case, be justified, either from the standpoint of American exporters of other goods than those discriminated against or importers of goods from the discriminating countries. To illustrate: Previous to about six years ago exports of American cottonseed oil to Austria-Hungary aggregated annually about \$5,000,000. The duty on the oil was suddenly increased from 9 to 40 francs per 100 kilos, all other oils being admitted at 15 francs, except olive oil, which is dutiable at 4 francs. Despite repeated efforts on the part of the United States Government which are continuing, Austria-Hungary, unmindful of official assurances of equalization of duties, still maintains the prohibitive duty on cottonseed oil. Not a hundred barrels of cottonseed oil have gone into that country during the past six years, and none is expected to that market to-day. The loss of the industry has been approximately \$30,000,000. The annual exports of America to Austria-Hungary aggregate approximately \$100,000,000 and the annual imports to the United States therefrom about the same. The Government of the United States would manifestly not be justified in breaking off all trade relations between the two countries in view of the interests of other American exporters to Austria-Hungary, and of American importers therefrom.

This Government has for many years been, and still is, active in behalf of the cottonseed-oil industry's foreign trade; and there appears no reason to believe this position will undergo any change.

A number of other cases of discriminatory tariff treatment exists, to wit:

Italy imposes on cottonseed oil a surtax not imposed on other edible vegetable oils, all of which compete with the native olive oil.

The Government of Argentina recently proposed to advance the duty on cottonseed oil over that on the other edible vegetable oils.

The Government of Uruguay recently increased the duty on cottonseed oil without a corresponding increase on other vegetable oils.

Foreign countries are, of course, recognizing the weakness of the present "maximum and minimum" provision in the United States tariff law, and will doubtless not fail to take advantage thereof, as has been done in the countries referred to above. All American exporting industries will doubtless as time goes on—unless some certainly practical method is written into the law for the protection of American foreign trade—continue to suffer from discriminatory treatment at the hands of foreign Governments.

The production of cottonseed oil for any given year is too large for purely home consumption and must, therefore, be disposed of in foreign markets. Hence the importance of not only reopening markets it has heretofore had, but of their extension into new fields.

In view of the fact that nothing seemingly more reasonable has thus far been proposed, the representatives of that industry feel justified in strongly directing the attention of the Ways and Means Committee to the method proposed at the last session by the Secretary of State. That official in view of the isolated cases of discrimination not justifiably to be met by applying the present remedy, recognized the impracticability of that remedy. He recommended—and this recommendation was repeated by the President to Congress in his message of December 3, last—that the existing "maximum and minimum" be modified so as to permit the Executive, instead of applying the maximum rate to all commodities from the offending country, to select from the list of articles exported therefrom one or more important ones upon which there might be imposed an additional duty as a retaliatory measure.

The cottonseed-oil industry strongly urges the Ways and Means Committee to keep steadily in mind the importance of providing some method by which their foreign trade may be properly cared for.

(Briefs similar to above were filed with the committee by the American Cotton Oil Co., the Tennessee Cotton Oil Co., and others.)

PARAGRAPH 639—OILS.

J. J. CULBERTSON, PARIS, TEX., SUGGESTS CHANGE OF RATE ON SOYA-BEAN OIL.

THE INTERSTATE COTTON SEED CRUSHERS' ASSOCIATION,
Paris, Tex., January 4, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: This schedule embraces an article, soya-bean oil, which comes into competition with American cottonseed oil in this and other countries. The imports of such into the United States have grown until the quantity now amounts to about 100,000 barrels per annum, the article having free entry under paragraph 639 of the act of 1909. As a consequence, this Government derives no revenue thereon. We think, under the conditions, that the proposition to place a duty of $1\frac{1}{4}$ cents per pound under H. R. 20182 should be carried. And the soya bean (which comes under agricultural products and provisions), which carries a duty of 45 cents per bushel under paragraph 249 (unless such would come under paragraph 266, in which event the duty would be 25 cents per bushel), should have such duty materially reduced or totally abolished, in order that the American oil manufacturers may become able to produce the oil thereof, as under the present conditions the Government does not derive any revenue thereon on account of the present prohibitive duty, nor is the American oil manufacturer able to produce such for the same reason.

We believe, therefore, that the best interests of the American manufacturers of oil from oleaginous seeds and beans would be best served if your honorable committee can see its way clear to suggest such change.

Respectfully submitted,

J. J. CULBERTSON, *Chairman.*

WASHINGTON, D. C., *January 31, 1913.*

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

SOYA-BEAN OIL.

DEAR SIR: The import of this article into this country last year amounted to about 100,000 barrels. It produced no revenue. The bean from which it is produced is grown in Manchuria and China. The quantity grown there is annually about one and one-half million tons, of which about 60 per cent is exported direct to European countries where the bean has free entry. The absolutely prohibitive duty of 45 cents per bushel in the United States throws all this business into the hands of foreign manufacturers. This condition, of course, operates against the crushing industry of this country, whereas with the duty abolished on the soya bean a slight duty on the oil—say, one-half cent per pound—which would about cover the difference in cost of production at home and abroad, would permit its manufacture in this country. Duty-free soy beans would enable the seed-crushing industry to crush them without any change in their machinery and would enable the oil mills to extend their period of cottonseed crushing from the present average of about six months per year to longer periods, thus benefiting the labor employed, reducing overhead charges, and consequently benefiting the Southern farmer, in that such lessening of cost of operation would enable the crushers to pay increased prices for cotton seed.

Soy-bean oil is used similarly to low-grade cottonseed oil in the manufacture of soap. Although not in the same degree as high-grade cottonseed oil, it is likely to become an edible oil. Indeed, improvements in refining have recently shown that it can be used in limited quantities for such purpose.

Inasmuch as the American oil mills have abundant capacity and ample idle periods to produce what soy-bean oil is needed in the United States, the association we represent and the entire cottonseed-oil producing industry feel justified in asking your honorable committee to report to the House of Representatives such measures as will give to American crushers a fair chance to enjoy an equal advantage with those of Europe, which would follow the abolition of the present duty of 45 cents per bushel on soy bean.

The countries which have high or prohibitive duties against American cottonseed oil are enabled (under existing favorable conditions relative to tariff on soy beans)

PARAGRAPH 639—OILS.

to manufacture and import into our country, duty free, soy-bean oil, which now comes, and promises to still more greatly come, into competition with American cottonseed oil.

OLEO STEARINE.

Duty free. Oleo stearine is used in large quantities in the manufacture of lard substitutes. The free importation of foreign stearine has acted to prevent absolute control of the price of domestic manufacturers. Not only has free oleo stearine acted to prevent such control, but the availability of the supply of the foreign product has enabled the manufacturers of lard substitutes to put those substitutes on the market at less cost to the consumer, and has thus kept down the price of lard. The importance to the cottonseed oil industry of retaining upon the free list oleo stearine can not, perhaps, be more forcefully set forth than in the argument hereto attached, marked "Exhibit A."

ADMINISTRATIVE FEATURES.

It is on the administrative features of the tariff law that exporting industries must depend for protection for foreign trade. Having in mind this fact, we, representing the Interstate Cottonseed Crushers' Association and speaking as well for the cottonseed oil industry as a whole, beg to respectfully direct the earnest attention of yourself and your honorable committee to the following statement:

The provisions of existing law are now recognized as impracticable for use in isolated cases of discrimination against American products.

Six years ago exports of American cottonseed oil to Austria-Hungary amounted annually to about \$5,000,000. The duty on the oil was then increased to 40 kronen per 100 kilos, while other oils were kept at 15 kronen, except olive oil, which is dutiable at 4 kronen. The result is that no cottonseed oil is exported to that market to-day.

The United States Government has for years been active in behalf of the cottonseed oil industry's foreign trade. Notwithstanding this, Italy imposes on cottonseed oil a surtax not imposed on other edible vegetable oils, all of which compete with the native olive oil. Argentina has recently proposed to advance the duty on cottonseed oil over that on other edible vegetable oils; Uruguay recently increased the duty on cottonseed oil without a corresponding increase on other vegetable oils.

Foreign countries recognize the weakness of the "maximum and minimum" provision in the existing tariff law. Unless some certainly practical method is written into the law for the protection of American foreign trade, all American exporting industries will suffer discriminatory treatment at the hands of foreign Governments.

The cottonseed-oil industry expresses no preference of method by which the end desired shall be reached. It feels justified, however, in directing your earnest attention to the method recommended by the present Executive to Congress, in a message dated December 3 last—that the provisions of the existing law be so modified as to permit the President to select from the list of articles exported from the offending country to the United States one or more important ones upon which there might be imposed retaliatory duties.

Concerning the effect upon the cottonseed-oil industry if insufficient attention be given to the preservation and extension of its foreign markets: This industry is to-day exporting large quantities of oil. It does not sell in foreign markets at prices below those at which it sells at home. The domestic price for the oil is naturally whatever the demand justifies, while the foreign price is the current domestic price plus freight and insurance.

Cottonseed oil is an active competitor in foreign markets with olive and the other edible oils, even in countries where the production of the other oils is greatest, and notwithstanding the difference in cost of labor and production. The oil occupies a most unique position in the world's markets for edible vegetable fats. Practically no high-grade edible cottonseed oil is made anywhere than in the United States or from any but American seed. In Africa, Eastern Europe, and Asia considerable quantities of cotton are raised and corresponding amounts of seed produced. Most of this seed is crushed in England. The oil produced therefrom is not of high-grade edible quality, but is used principally in the manufacture of soap.

Production of high-grade edible cottonseed oil being then a practically exclusive American industry, the position this Government has taken and consistently maintained is entirely justifiable and correct. That position is that the welfare of the cottonseed-oil industry in foreign markets should be carefully guarded; that the oil, being entirely pure and wholesome for all edible purposes, is entitled to and should

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receive tariff treatment by foreign countries equivalent in all respects to any and all of the other edible oils with which it competes; and that new markets should, if possible, be found for it, as well as old ones retained.

It is a well-known fact that cottonseed oil is now the cheapest and quite the best edible oil available and is the one saving grace in keeping the market for edible fats well below the comparative price of other items which make the high cost of living.

The farmers and oil millers of the South have patriotically undertaken the task of supplying to the world the very cheapest and at the same time the purest and best edible oil available. The degree of their success is one of the marvels in the industrial development of the present time. One fact, among many, making possible the low price at which this oil can be manufactured and sold, is the broad export market permitting a long division of fixed charges in the industry. With unstinted expenditures in scientific investigation, the quality of our product has been greatly improved. But with a broad export market bearing a proportion of fixed charges, the prices of the finished and greatly improved article still remain the lowest, although the price to the farmer for cottonseed has steadily advanced from \$5 per ton in 1898 to above \$30 per ton the present season. To interrupt or curtail this market must of necessity increase the proportion of fixed expense and correspondingly increase the cost of the finished product, and at the same time lower the price possible to the farmer who produces the raw material. To broaden the export market must necessarily enable further division of fixed charges, cheapen the cost of finished product, and at the same time further increase the demand for the raw material from the farmer.

But vital as is this question to our own industry, it concerns us in no greater degree than it does every other exporting industry or interest in this country. Any article going to export trade is liable to be, and doubtless many are, similarly discriminated against in foreign markets. And unless the law is amended and strengthened, the discriminations will naturally increase as one after another of the foreign countries discover the vulnerable point in our situation.

So, while we are vitally concerned and are commissioned to speak primarily for our own industry, we are also interested as citizens of this great country in seeing all industries provided with necessary means for protecting their just rights in the markets of the world.

Therefore repeating, that while we express no preference of method by which the end desired shall be reached, we strongly urge your honorable committee to provide in the tariff bill which you shall report some adequate means of reaching and controlling specific individual discriminations against American articles imported into foreign countries without the necessity of interrupting or breaking off all trade relations with such foreign country, as is the case with the present law.

Respectfully submitted.

C. W. ASHCROFT,
President.

J. J. CULBERTSON,
*Chairman, Legislative Committee, Interstate
Cottonseed Crushers Association.*

EXHIBIT A.

ARGUMENT FOR PUTTING OLEO STEARINE ON FREE LIST.

Oleo stearine is an edible fat, rendered from the choice parts of beef fat, first in the form of oleo stock, which is granulated, then pressed and thus separated into a soft fat called oleo oil, which is used for making margarine, and into a very hard fat called oleo stearine.

Oleo stearine and cottonseed oil combined make lard substitute which is a palatable, wholesome, and nutritious article of food.

Oleo stearine made in this country is manufactured by a few large meat packers who, until the enactment of the existing tariff law, dominated the production and sale of all animal foods. The makers of lard substitutes and the producers of cotton oil appealed to Congress to discontinue entirely the duty upon oleo stearine.

Cotton oil is a comparatively recent addition to the world's supply of edible fats (it now amounts to about one-fourth); and notwithstanding that it is now produced in such large volume, say, 2,500,000 to 3,000,000 barrels per year, the prices of edible fats have been maintained at about the same level as previously. This shows that

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cotton oil is a necessary and important addition to the world's supply, without which prices would have become very much higher and oppressive to consumers.

One of the most important uses of cotton oil is in lard substitutes, for which there is a large demand; therefore, the cotton growers and the cotton oil manufacturers are as much interested in this question as the manufacturers of lard substitutes. This country manufactures about 600,000,000 pounds of lard substitutes (of which about 82 per cent is cotton oil), exporting about one-sixth, while the rest is used in the United States, thus enabling us to export about an equal quantity of hog lard.

The price of lard substitute is about 2 cents per pound less than hog lard, and represents a saving to consumers of \$10,000,000 per annum.

For years previous to the enactment of the existing tariff law the manufacturers of lard substitute felt themselves at the mercy of the packers.

A duty on oleo stearine would enable the packers to again take advantage of their monopoly. The manufacturers of lard substitute would find themselves, not only in a position where they would have to pay whatever the packers pleased to ask for oleo stearine, but also under the necessity of accepting whatever price the packers pleased to name for lard substitute, because they also are large manufacturers and distributors of this article.

The packers would thus be in a position, not only to regulate the price of oleo stearine, but also in a large measure to regulate the price of cotton oil, because they would have the ability to fix the price of lard substitute by selling price, and to fix the price of oleo stearine by asking price.

We claim, therefore, there should be no duty placed on oleo stearine.

A duty on oleo stearine was not and would not be a revenue producer. In the history of the past it did not produce enough net revenue to pay the expense of collection.

Consumers would not be helped by a duty, because dutiable and consequently high oleo makes higher lard substitute. The only beneficiaries of the duty, therefore, would be the packers.

That an artificial price was maintained by the packers previous to the enactment of the existing law is proven by the fact that while all other meat products were higher in Europe than in the United States, oleo stearine was very much higher in the United States than in Europe.

Producers of oleo stearine can not claim that the high prices asked were due to relations between supply and demand, because the supply in this country, as handled by them, was too small, and because consumers were deprived of the foreign supply by the duty.

BRIEF OF H. T. MCKERROW.

JANUARY 6, 1913.

Mr. O. W. UNDERWOOD,
Chairman of Ways and Means Committee,
House of Representatives, Washington, D. C.

DEAR SIR: We beg to call attention to the Payne tariff bill free list, paragraph 639. This law provides for the free entry of cottonseed oil and soya-bean oil.

If the law is modified, we suggest that sunflower-seed oil be included in the same classification as cottonseed oil. The two oils are of the same nature and are used for the same purposes. As the law stands at present, sunflower-seed oil not being specially provided for is assessed 25 per cent ad valorem duty.

We also call attention to oleines manufactured by destructive distillation of wool grease. According to the Payne law, these oleines are dutiable in paragraph 3 as being distilled oils not specially provided for and are assessed 25 per cent ad valorem duty.

Oleines such as we refer to are not made in this country, consequently no protection is necessary. Furthermore, it is an unnecessary hardship for the textile trade who consume these oleines in the manufacture of yarn and cloth.

It is probably unnecessary to say that the distillation of wool grease in any form is not engaged in at present in this country.

Respectfully, yours,

H. T. MCKERROW.

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TESTIMONY OF B. A. LEVETT, NEW YORK, N. Y.

The witness was duly sworn by Mr. Harrison.

Mr. LEVETT. If the committee will permit me, I want to talk for a minute or two on peanut oil, and then on the administrative.

In the House bill that was introduced at the last session and passed, peanut oil was taken off of the free list and put on the dutiable list, under the chemical schedule, at 10 cents a gallon, and I want to call the attention of the committee to the fact that this peanut oil is, so far as we are able to understand, not made in this country. It is an oil which is made from the African peanut, and is used in the manufacture chiefly of butterine, which is in turn used in the making of cheap bread and food stuffs, in place of the poorer oils which would be used if we could not get this peanut oil.

It is different from the oil which could be extracted from the peanut of this country, in that the African nut is a peculiar species which has very little flavor. It is what they call neutral, so that this oil can be used in the making of the butterine, because it has no flavor whatever. If it is not used, the poorer oils—in fact, cottonseed oil—is used when they can not get this peanut oil. I presume the oil was taken off the free list as a revenue proposition.

Mr. HARRISON. Do you maintain that it is used only in the manufacture of butterine?

Mr. LEVETT. I think that is its chief use; I won't say the only use. I know they did try to introduce it as a substitute for salad oil, but it is not going. The quantity is decreasing, as people find they do not like it. I know I tried it at home, but I could not get my wife to use it.

Mr. HARRISON. It is your contention that it is used only in food?

Mr. LEVETT. Chiefly in food; yes, sir.

Mr. HARRISON. Not in manufacture?

Mr. LEVETT. Not so far as I have been able to find out; and I have tried to find out if there is any manufacturing use.

Mr. HARRISON. Suppose we did not have a duty of half a cent on peanuts, could we make that peanut oil in America?

Mr. LEVETT. If they brought in the African peanut, undoubtedly they could.

Mr. HARRISON. Can they not make oil out of the American peanut?

Mr. LEVETT. Yes; but the American peanut oil, so far as I know, would not serve any purpose which would not be fulfilled by the cheaper oils—cottonseed oil and the like. That is the reason they do not bother with peanut oil in this country.

Mr. HARRISON. Would the African peanuts compete as a food product in the American markets with the American peanuts?

Mr. LEVETT. I think not; I don't think you would care to eat an African peanut; they are very small and tasteless.

Mr. HARRISON. Not fit for food, really?

Mr. LEVETT. Not as you and I would eat peanuts.

Mr. HARRISON. What is the bulk of these peanuts that come in? Are they African peanuts?

Mr. LEVETT. I can not tell you.

Mr. HARRISON. Japanese, aren't they?

Mr. LEVETT. I am not informed.

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Mr. HARRISON. If they were put on the free list, do you believe it would start an industry in making peanut oil here?

Mr. LEVETT. If you will look at the statistics, and look at the small quantity imported, I doubt whether any industry here would find it worth while to start in. They can accomplish the purpose with the other oils which are manufactured here so much more cheaply; and if you will look at the statistics that you have before you, you will see what a small increase in the price of peanut oil does to importations. In 1910, when the price was 47.6 cents, importations were 3,284,064 gallons; in 1911 the average price was 60.2 cents and the importations were 1,121,097 gallons, a little over one-third; in 1912 the price increased to 65.8 cents and the importations were 878,659.57 gallons.

Mr. HARRISON. Now, one moment, Mr. Levett. Isn't that probably due to the fact that there was a rise in all kinds of oil here, beginning with the failure of the flax crop?

Mr. LEVETT. The oils here?

Mr. HARRISON. Yes.

Mr. LEVETT. But this was imported oil.

Mr. HARRISON. I say, import more oil but pay the highest price.

Mr. LEVETT. We have imported less oil as the years go on.

Mr. HARRISON. The demand sent the price up so that it was not profitable to import peanut oil.

Mr. LEVETT. But if you will look at cottonseed oil you will find the importations went up in proportion as peanut oil went down, showing that cottonseed oil was being used in place of peanut oil. If a duty is put on peanut oil, no man can tell, but I think it is fair to assume that importations of peanut oil will probably be wiped out entirely, because it won't pay to import it.

Mr. NEEDHAM. Four years ago the peanut growers in Virginia, through their representatives in Congress, appealed to this committee very strongly and convinced me that they needed more duty.

Mr. LEVETT. On peanuts, but not on peanut oil.

Mr. NEEDHAM. You can't have the peanut oil if you don't raise the peanuts.

Mr. LEVETT. I can not say positively; I have nothing to say at all about peanuts. Still I can say positively about peanut oil, I am pretty well satisfied that none is produced in this country at all.

ADMINISTRATIVE.

I would like to say a word on the administrative act, especially in regard to subsection 18 of section 28, which fixes the market value of imported merchandise as the usual selling price of the goods—and I quote now—"including the value of all cartons, cases, crates, boxes, sacks, casks, barrels, hogsheads, bottles, jars, demijohns, carboys, and other containers or coverings, whether holding liquids or solids, and all other costs, charges and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States." I ask this committee to amend that paragraph by striking out the word "including," and inserting instead the word "excluding"; in other words, to make the market value of merchandise imported

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the value of the merchandise and not the value of the packing charges and the cases. There is this—

Mr. HILL. What section is that?

Mr. LEVETT. Subsection 18 of section 28 of the act of June 20, 1899, as amended. There is this to say in regard to discrimination. You take goods that pay a specific duty, and their coverings and wrappings are free, except in special instances, such as canned goods, where there is a special provision that cans are to be included, and in regard to bottles, which are specially provided for.

Now, you take the same goods, and if they were free the packing and cases would be free; but place those goods at an ad valorem rate and the coverings pay duty, and it is not a uniform duty. Let us illustrate by a cask of china. The cask is of wood, of course, and inside you will find straw and paper covering this china. If the china is decorated china, it pays 60 per cent, and you collect a duty of 60 per cent on the wooden cask, on the paper and on the straw. If the china is undecorated, you collect a duty of 55 per cent on the cask, the straw, and the paper. If it is Rockingham ware, you collect a duty of 40 per cent on this same cask, paper, and straw. If it is common brown earthenware, you collect 25 per cent, and if it happens to be a certain kind of earthenware tiles, dutiable at a specific rate, you do not collect any duty. If they take a compound rate of 15 cents per square foot and 10 per cent ad valorem; you collect 10 per cent ad valorem on these same coverings. If the goods are free, of course the coverings come in free.

I suggest to the committee that there ought to be some uniformity. If you are going to put a duty on ad valorem containers, there ought to be the same duty on all of them, whether the goods pay a high or a low rate; but there is no really valid reason why any usual and necessary coverings should pay any duty whatever. It has been suggested in former times that this duty on coverings was put on because of the practice of certain importers to bring in fancy cases, in some cases worth more than the value of the goods themselves. But in the very act which provided for coverings—that is, the administrative act of 1890—they had the provision in the very same paragraph that—

If there be used for covering or holding imported merchandise, whether dutiable or free, any unusual article or form designed for use otherwise than in the bona fide transportation of such merchandise to the United States, additional duty shall be levied and collected upon such material or article at the rate to which the same would be subjected if separately imported.

In other words, if I brought in a fancy cask or a barrel of decorated china, I would not only pay 60 per cent duty on that cask, but I would pay 35 per cent duty on the cask in addition, as a manufacture of wood. So there was absolutely no reason for this special provision for containers, inasmuch as there was a provision for the containers if they were unusual. There was some talk also, I believe, that importers would give the containers a higher valuation than they really were, thus reducing the value of the imported article. But I will wager that there are not 5 per cent of the invoices that come in to-day—consular invoices, I am not speaking of the little pro forma invoices—which do not separate the cost of the coverings

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and the cost of the goods; in fact, the statute provides it, and the examiner passes on the value of these coverings right along, so that that objection can be waived aside. In fact, even as to tins which are included in the value of the goods, they are separately specified on the invoices. I don't think, outside of those canned goods and similar articles, there is 1 per cent of goods that to-day are bought in the packed condition. They are bought on the other side, so much for a hundred sets of china, so much for so many dozens of this and that and the other thing, and then at the bottom of the invoice they add the packing.

There is one other provision I would like to speak about, in the administrative act, and that is what is known as subsection 11, which has been referred to here, and that relates to market value. It provides that—

The actual market value or wholesale price, as defined by law, of any imported merchandise which is consigned for sale in the United States, or which is sold for exportation to the United States, and which is not actually sold or freely offered for sale in usual wholesale quantities in the open market of the country of exportation to all purchasers, shall not in any case be appraised at less than the wholesale price at which such or similar imported merchandise is actually sold or freely offered for sale in usual wholesale quantities in the United States in the open market, due allowance by deduction being made for estimated duties thereon, cost of transportation, insurance, and other necessary expenses from the place of shipment to the place of delivery, and a commission not exceeding 6 per cent, if any has been paid or contracted to be paid, on consigned goods, or a reasonable allowance for general expenses and profits [not to exceed 8 per cent] on purchased goods.

That provision has operated very harshly on importers, and, as a matter of fact, I think a little reflection will show that it is absolutely impracticable to use it fairly. The goods come in; the examiner says he can not find the market value of this article. He goes around to the importers of the goods, or to importers of similar goods—and I did want to call attention to another section, section 15 of this act, which permits him to force anyone of these competitors to submit any data he has of his own private business. That section has been abused to all kinds of extents by the special agents, who have forced merchants to give up papers, which the Constitution of the United States really prohibits.

They get this price, this American selling price, and then they will figure back, and they tell the merchant how much profit he ought to make, and if it exceeds 8 per cent—and there has always been a question whether that 8 per cent did not include selling expenses—having deducted that, they find that he ought not to have bought these goods at 5 francs, as appears on his invoice, because he is making 20 per cent profit, or 15 per cent profit, or 9 per cent profit, and the law says only 8. Now, this man naturally wants to make 9 per cent profit, if he has been making that, but the examiner advances his goods several per cent. Naturally, to make his 9 per cent he has to put up his American selling price again, and then the examiner, on the next shipment, gets this new selling price and he advances it once more, and then the merchant, still wanting to make his 9 per cent profit, increases his American selling price, and so on ad infinitum. That is section 11. The difficulty is that in spite of the fact that importers have frequently submitted duly verified statements of cost of production, verified by the consul, and the exporter's books have

PARAGRAPH 639—OILS.

been shown to the special agents on the other side, the appraisers have frequently refused to take these accounts of production, and have taken the American selling price.

Mr. HILL. You say this refers only to goods for which there is no market price in Europe, being made especially for the American market?

Mr. LEVETT. Exactly, and also consigned goods.

Mr. HILL. It distinctly specifies goods for which there is no regular foreign market?

Mr. LEVETT. It says no market to all purchasers.

Mr. HILL. Of course, that is what it means.

Mr. LEVETT. What does "all purchasers" mean?

Mr. HILL. If you take that out you would absolutely give power to the foreign importer to make his own price, and you couldn't make him sell at any price to any other market.

Mr. LEVETT. In the same paragraph you have a provision which permits the purchaser to take the cost of production on the other side, and add expense and profits.

Mr. HILL. If there is no foreign market it has got to be made up somewhere.

Mr. LEVETT. There is no objection to taking the cost of production, that is fair, because that is a fact; but the American selling price, with an estimate of what profit the importer shall make, to be fixed by an appraiser who doesn't know anything about the merchant's business is unfair.

Mr. FORDNEY. You don't pay duty on goods on the American value?

Mr. LEVETT. Yes, sir; that is just the point. I believe along certain lines instructions were issued within the past year or two, that all examiners must call in the importers and find out what they are selling the goods for.

Mr. FORDNEY. That is because there is no foreign market for those goods?

Mr. LEVETT. But they can find the cost of production. I have a case in mind where labor, costs of production, were submitted and the books on the other side were thrown open, but that didn't do any good.

The CHAIRMAN. You are talking about the provision found in the last law?

Mr. LEVETT. Yes, sir.

Mr. HILL. The last part of the clause, Mr. Chairman; where there was no foreign market they should take the domestic market, and tear down from that price in order to ascertain the actual value; and he says the Government is placed entirely in the hands of the foreign market.

The CHAIRMAN. Your contention is that instead of being put on the American market price, they ought to take the cost of production?

Mr. LEVETT. Why, the law—I won't say the cost of production; I say the law, as it was before this section 11 was put in in the Senate, when this bill was passed—the House never had anything to do with it; it was put in in the Senate; then it was submitted to the House and the House was forced to put it in.

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Mr. FORDNEY. Under the old law, weren't there undervaluations?

Mr. LEVETT. Mr. Fordney, I have no brief on this question of undervaluations. I have been listening to several of these men here. I am coming to the point; I will answer you directly. I was connected with the Board of General Appraisers as Government attorney, and I was with them for 10 years, and I have been practicing on the outside for six years. I know something of undervaluations. By actual figures—if you will take the trouble to send to the Treasury Department, I think you will get a report that was made to the Secretary of the Treasury, Shaw, showing that the undervaluations did not amount in New York to more than one-tenth of 1 per cent of the importations.

Mr. FORDNEY. On what?

Mr. LEVETT. On everything.

Mr. FORDNEY. There is a gentleman in this room that testified to this, that four years ago he went abroad, as a committee of one, to run down a certain article that was being sold in this country and found that in the neighborhood of \$9,000,000 of stuff at cost had been brought into this market for less than \$5,000,000.

Mr. LEVETT. Why, that may be true, Mr. Fordney. Now, there are some undervaluations, but I am talking of the total importations. I say this, that I agree with Mr. Bonheim that this talk of great undervaluation is mere talk, is a bugbear.

Mr. FORDNEY. I will agree with you in regard to the undervaluation, but the desire of the importer is always to get into your markets at the least possible cost.

Mr. LEVETT. Of course, that is business.

The CHAIRMAN. Let me ask you a question right there. You say the customs authorities of New York made a report to Secretary Shaw?

Mr. LEVETT. I am informed that is so. I was told so by an official who used to be in the Treasury Department. Just where that report is I do not know, but, Mr. Underwood, you can ascertain the truth without it if you will figure this: If you will take the total amount of the importations and the total amount of ordinary duties collected and the total amount of reappraisements, figure the amount of the entries under reappraisement, which represent those that are advanced by the examiner, compare that with the total number of entries and importations of the port, and you will find, I believe, they do not exceed one-tenth of 1 per cent—I have said that the undervaluations do not exceed 1 per cent; I have published that in an open letter to Secretary MacVeagh. I wanted to be conservative. I think those figures can be verified at any time, but certain interests have found it to their interest to hide the fact and give the impression that the undervaluations are enormous. In the latest report of the Secretary of the Treasury he speaks of the comparatively insignificant amount collected from the smugglers in New York, which amounted to about \$10,000,000, and then he speaks of the great amount collected from undervaluations, which amounted to \$8,000,000 in three years.

On this undervaluation, as I say, I hold no brief for importers or for anyone else, but I do think, in justice, that the question of alleged gross undervaluation ought to be investigated.

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The brief submitted by Mr. Levett follows.

NEW YORK, *January 30, 1913.*

The COMMITTEE ON WAYS AND MEANS,
Washington, D. C.

SIRS: We respectfully call attention to the provision in subsection 18 of section 28 of the act of August 5, 1909, which fixes the market value of imported merchandise as the usual selling price of the goods, "including the value of cartons, cases, crates, boxes, sacks, casks, barrels, hogsheads, bottles, jars, demijohns, carboys, and other containers or coverings, whether holding liquids or solids, and all other costs, charges, or expenses incidental to placing the merchandise in condition packed ready for shipment to the United States."

On behalf of numerous importers we ask that this paragraph be amended by striking out the word "including" and inserting the word "excluding" in lieu thereof. In other words, that the proposed administrative act fix the dutiable value on ad valorem merchandise as the value of the goods exclusive of the packing charges.

From time immemorial there has been no duty on coverings or containers of goods paying a specific rate of duty, nor on those which are free of duty, except where there has been a special provision designed to reach certain particular kinds of containers, such, for instance, as glass bottles, which are susceptible of being used again after importation. Another exception is that incorporated for the first time in the present act for cylindrical vessels for holding gas, liquids, or solids, a type of container which received the special attention of Congress during the discussion of the act of 1909.

A duty on the packing charges of ad valorem goods is manifestly unfair when it is considered that if the same goods paid a specific rate the coverings or containers would be free. Under the act of 1883 packing charges were not dutiable and the excuse for making them dutiable in the act of 1890 seems to have been the fear that valuable containers might be imported as packing at a less rate than they would pay if separately imported. But the administrative act of 1890 also contained the provision in the same section that "if there be used for covering or holding imported merchandise, whether dutiable or free, any unusual article or form designed for use otherwise than in the bona fide transportation of such merchandise to the United States additional duty shall be levied and collected upon such material or article at the rate at which same would be subjected if separately imported."

This provision remains in the law to-day, so that the amendment suggested would affect only the usual coverings.

The assessment of duty on wooden cases, paper wrappings, etc., works a hardship and is unfair. Take, for instance, a cask containing decorated china which pays a duty of 60 per cent ad valorem. That 60 per cent applies not only to the china itself but to the cask of wood, to the straw packing, and the paper wrappings, the value of all of which must be included in the dutiable value. If the casks came in empty they would pay a rate of 35 per cent as manufactures of wood; the paper would come in under the paper schedule at the appropriate rate according to its character, but unquestionably considerably below 60 per cent; and the straw would come in under the provision in paragraph 267 at the rate of \$1.50 per ton, which, based on the importation of 1912, is an equivalent of 27.7 per cent.

Now, let us take the same cask, the same straw, and the same paper, and use it to import the same china, but undecorated, and it pays only 55 per cent. If it be used to import Rockingham ware it pays 40 per cent, while if we use it to import common brown earthenware it would pay 25 per cent, and if we use it to import certain classes of earthenware tiles which pay a specific duty it would come in free.

There is therefore no reason why the same article should be free of duty where the contents are specific or free and dutiable at various rates, running the whole scale of the ad valorem rate in the tariff, when ad valorem goods are imported in them. It is a matter of common knowledge that with the exception of canned goods and the like, goods are very rarely sold at a price in the packed condition, and it is seldom that a consular invoice does not itemize the packing separately, and this even on canned goods. If it be desired to take especial care of such articles this could be very readily done; in fact it is done in the present tariff. In paragraph 251, for instance, which provides for "beans, pease, mushrooms, and truffles in tins, jars, bottles, or similar packages," the rate is fixed for the articles "including the weight of immediate coverings." This also occurs in the paragraph for chocolate and cocoa which specially provides that the "weight and value of all covers other than wooden shall be included in the value of the foregoing merchandise."

Respectfully submitted.

MASTERS & LEVETT,
117 State Street, New York City.

PARAGRAPH 639—OILS.

BRIEF SUBMITTED BY LAMONT, CORLISS & CO., NEW YORK,
N. Y.

The COMMITTEE ON WAYS AND MEANS,
Washington, D. C.

GENTLEMEN: The undersigned are importers of peanut oil, which is now admitted free of duty under the provision in paragraph 639 for "nut oil or oil of nuts." We respectfully ask that this article be retained on the free list, and that if the provision for nut oil under which it now comes be placed on the dutiable list, that a special provision be inserted in the free list for peanut oil. In support of this request we assign the following reasons:

1. It is not produced in this country and is a raw material used in the manufacture of butterine, a wholesome and nutritious substitute used as butter by the poorer classes and by bakers in making cheap bread.

2. A duty thereon would operate to depreciate the quality of butterine and cheap bread, while little revenue would be derived therefrom, as its importation would greatly decrease.

Peanut oil is a raw material used in the manufacture of butterine, a wholesome and nutritious substitute used as butter by the poorer classes and by bakers in making cheap bread.

Peanut oil, as its name indicates, is the expressed oil of the peanut. Its most important use is in the manufacture of butterine, an article used as a substitute for butter by the poorer classes and by bakers in the making of bread. It is not an adulterant, but is wholesome and nutritious, and enables the baker to produce a cheap bread without lowering its quality. While it is possible to produce oil from all peanuts, the oil used in making butterine must be neutral—that is, without flavor; and experiments have demonstrated that the only grade of peanut oil fit for this purpose is that made from the West African peanut, a small nut which is practically tasteless. So far as we can ascertain, peanut oil is not produced from the American peanut, as its strongly pronounced flavor would preclude its use in butterine, and its only uses would be those of other oils that could be more cheaply produced.

Peanut oil was first introduced into this country about eight or nine years ago, and although never specially enumerated has ever since come in free of duty under the provision for "nut oil or oil of nuts," which has been on the free list since the act of 1890.

A duty on peanut oil would not only operate to depreciate the quality of butterine and cheap bread, but would result in a very slight increase in the revenue.

The exaction of a duty on peanut oil would force the manufacturers of butterine to use cheaper and less wholesome articles in place of this oil. Its increased cost would in all probability prevent its use as an ingredient of butterine, and as this is the chief purpose for which it is employed, its importation would greatly decrease.

A glance at the importations for the past three years will illustrate how they decrease as the price of the article advances. In 1910, when the price was 47.6 cents, the importations were 3,284,064 gallons. In 1911 the average price was 60.2 cents, and the importations 1,121,097—a little over one-third. In 1912 the price increased to 65.8 cents and the importations were 878,659.57. These figures tell in the strongest language that a duty of 10 cents per gallon, as was proposed in House bill 20182, will very quickly shut out the product almost entirely.

We therefore submit that as the article is not produced in this country, as it is chiefly used as a raw material, and as its assessment would add little to the revenue, it should be retained on the free list, and we ask the insertion of a provision reading: "Peanut oil."

Respectfully submitted.

LAMONT, CORLISS & Co.,
78 Hudson Street, New York.

MARCH 5, 1913.

Hon. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means, Washington, D. C.

SIR: Referring to brief filed by me on behalf of Lamont, Corliss & Co., in connection with my testimony on peanut oil, now free of duty under paragraph 639, I desire to point out as an additional reason why peanut oil should be on the free list the fact that when butterine is made without peanut oil it sticks to the roof of the mouth and does not melt as butter does, but possesses a more or less tallow-like, pasty

PARAGRAPH 639—OILS.

consistency, which renders it unpleasant to the taste. When, however, a certain proportion of peanut oil is used in combination with cottonseed oil the butterine loses this pasty quality and melts on the tongue, just as butter would. Its use therefore enhances the quality of butterine, increases its consumption, and consequently the consumption of cottonseed oil.

Respectfully,

LAMONT, CORLISS & Co.,
By B. A. LEVETT, Attorney.

BRIEF SUBMITTED BY CHARLES A. STERNE, CHICAGO, ILL.

CHICAGO, ILL., January 8, 1913.

TARIFF COMMITTEE,

House of Representatives, Washington, D. C.

GENTLEMEN: Your published schedule contemplates assessing a duty on peanut oil of 10 cents a gallon and on sesame oil of 1½ cents per pound.

The principal use of this imported article at the present time is as one of the main ingredients in the production of oleomargarine.

Our press throughout the country have had a great deal to say concerning the high cost of living, and this added duty would put another tax upon the consumer, particularly as the present production of pure butter is not sufficient to meet the requirements that are here at home in the United States.

As for the product itself, we are very reliably informed by one of the principal manufacturers of peanut oil in the world that a great many experiments have been made with peanuts raised in this country and sent to Germany for refining, but in each and every case they have been unable to produce a satisfactory oil on account of the character of the peanuts, showing rather conclusively that up to this time they are either without the proper soil or the proper seed for the raising of nuts to make a satisfactory oil for this purpose.

In other parts of the world this same sort of a condition seems to prevail, for the nuts secured in a district known as Rufisque in Senegambia are the only nuts produced at present which provide an oil of sufficient high quality to meet the requirements of the oleomargarine manufacturer of this country to-day.

On sesame oil it is a well-known fact that the production of seed in this country for such a purpose is virtually nil, and we must therefore depend upon the foreigners for the production of this oil.

In conclusion, it seems only fair to the general public, without respect to the wishes of a few manufacturers, that these oils be allowed to continue in the future as they are at present, on the free list.

This plea is based particularly upon the fact that these oils are an edible product, and in the universal effort to reduce the high cost of living it would seem unbecoming to add a tax to these materials under the circumstances, as the working people of the country must ultimately pay the bill.

Your earnest deliberation and consideration is especially requested before framing your conclusion.

Respectfully submitted.

CHARLES A. STERNE.

RESOLUTIONS ADOPTED BY THE MEMPHIS MERCHANTS' EXCHANGE AT A MEETING HELD JANUARY 16, 1913.

MEMPHIS MERCHANTS' EXCHANGE,
Memphis, Tenn., January 16, 1913.

Whereas the American Cotton Oil Co., in a circular of date New York, December 28, 1912, has made several pertinent and important suggestions and recommendations regarding revision of the tariff by the United States Government as affecting the interests of cottonseed oil and allied industries; and

Whereas the members of the Memphis Merchants' Exchange approve and indorse those suggestions and recommendations; be it

Resolved, That the members of the Memphis Merchants' Exchange in special meeting assembled most earnestly request the House Ways and Means Committee, who are now conducting hearings on Schedules A to K, inclusive, to adopt the suggestions and recommendations by the said American Cotton Oil Co.; and be it further

Resolved, That the Representatives from Tennessee be requested to support these suggestions and recommendations; and, further, that the secretary of this exchange

PARAGRAPH 639—OILS.

be instructed to send a copy of the American Cotton Oil Co.'s printed circular to Chairman Oscar W. Underwood, of the House Ways and Means Committee, and to the Hon. Kenneth D. McKellar and other Representatives from this State.

Attest:

N. V. GRAVES, *Secretary.*

BRIEFS ON SOAP MATERIALS.

[The Hygienic Products Co., manufacturers of refined soaps, toilet and hygienic preparations.]

CANTON, OHIO, *December 27, 1912.*

HON. J. J. WHITAKER, *Washington, D. C.*

DEAR SIR: The inclosed letter is only one of many that we have received recently calling our attention to that part of the Underwood bill which provides for an import duty on the oils mentioned, and we are prompted to write you calling your attention to the fact that the raw materials from which these oils are made are not grown in this country and can not be grown in the United States territory.

We are interested very largely in the duty proposed on coconut oil, as we specialize largely in the manufacture of coconut-oil soaps, and do not want to see any duty placed on an article of this character, which can not be obtained in this country. The question of a duty on coconut oil has been brought up at various times during the past 20 years, even during President McKinley's time. This question was aroused and he interested himself to the extent of calling at the office of this company to ascertain the facts, and when advised that coconut oil could not be produced in this country he immediately stated that there would be no duty on coconut oil.

Copra, the dried coconut, from which coconut oil is pressed, is not mentioned in the Underwood bill. During the last tariff legislation an effort was made to place a one-fourth cent duty on coconut oil, but not a word was said about a duty on copra.

Many were of the opinion that the influence that was attempted upon the committees to place this duty emanated from one of our largest corporations who have been in the limelight very much during the past two years. We refer to the Standard Oil Co. It was apparent to those interested that they were endeavoring to demand a duty on the oil, and then admit the copra free and press the oil in this country. Coconut oil is used in almost every high-grade soap made in the United States, and there is not an item entering the household as important as the matter of soap. It is not one of the luxuries, but one of the necessities. Why the American people should be compelled to pay more for such an absolute necessity as soap, resulting from a duty on raw materials not produced in this country, is absolutely inconsistent with the sentiment abroad as to reduction in tariff duty. If duties are to be placed upon imports, attention should certainly be directed to those items that are in direct competition with goods produced in this country. This proposed duty is positively an absurdity. It will benefit nobody, and we are very much of the opinion that there must be some selfish motive back of this question of duty on goods that it is not possible to produce in this country.

We hope when this question comes up for consideration you will bear this particular point in mind. All of the oils mentioned in this letter are being used very largely in various manufacturing lines in the United States, and why they should be subject to a duty is entirely beyond the writer's understanding of the principles of the Democratic Party.

Yours, very truly,

THE HYGIENIC PRODUCTS CO.,
By C. H. SCHLABACH, *Secretary.*

DUTY ON VARIOUS SOAP MATERIALS.

NEW YORK, *December 26, 1912.*

DEAR SIR: Knowing that you are one of the leading soap manufacturers and large consumers of various vegetable oils and fats as soap stuff, we beg to call your special attention that the Underwood bill, on which hearing is going to be given on January 6 at Washington, D. C., by Ways and Means Committee presiding, provides an import duty running from one-fourth of a cent to one-half of a cent per pound on such raw materials as soya-bean oil, coconut oil, palm oil, palm-kernel oil, etc.

PARAGRAPH 639—OILS.

Such assessment of duty on raw materials is undoubtedly unreasonable, as it will place the consumers in a very disadvantageous position in buying these materials in the future.

We recommend strongly to write or wire to the Representative of your district to oppose such assessment of duty and to leave them "free" as they are now, and by so doing it will protect your interest in buying of these materials, and further to insure the welfare of soap industries in this country.

On page 18 of the Oil, Paint, and Drug Reporter, issued on December 23, 1912, the details are given about proposed change of duty on these commodities.

Yours, very truly,

MITSUI & Co. (LTD.).

DUTY ON VARIOUS SOAP MATERIALS.

NEW YORK, December 27, 1912.

DEAR SIR: With reference to our circular letter of the 26th instant regarding the above subject, we believe that you are quite familiar with coconut oil, palm oil, palm-kernel oil, etc., as they have been imported into this country for many years.

However, when it comes to soya-bean oil, this material being quite a new article, we are afraid that you may not be well posted, and in this connection we herewith beg to attach a little information on this oil, which we hope will be of some value to you. We are, dear sirs,

Yours, very truly,

MITSUI & Co. (LTD.).

SOYA-BEAN OIL.

Soya-bean oil is crushed from soya bean, which is a product of north Manchuria, China.

This oil was used by soap manufacturers in extensive quantities about three years ago, when cottonseed oil, fallow, grease, and other soap materials were very high.

We heard that experimental plantations were made in this country with soya bean in the past, but the result was not successful.

There even might be a small quantity of soya bean raised in this country, but such quantity is used for cattle feeding, fertilizer, etc., and is not enough for crushing use to obtain oil; therefore the only way to obtain soya-bean oil is to import from foreign countries.

The production of soya bean in north Manchuria averages around 1,000,000 tons, of 2,240 pounds, per year. About 40 per cent of this quantity is now exported to Japan, where it is used for soy making, or feeding purpose, as well as for crushing use to make soya-bean oil. About 20 per cent is consumed by China itself; about another 20 per cent is crushed in northern China, thereby obtaining oil and cake; about 5 per cent will be kept by farmers for sowing use for next season. The balance of about 15 per cent is for export to European crushers. In Europe soya bean is used for crushing purpose to obtain soya-bean oil and soya oil cake.

Soya bean has only been introduced to European crushers since 1909. Therefore it is still quite a new product to them.

There is no industry in this country for crushing soya bean; therefore the soya-bean oil used by soap manufacturers has to be imported, as above stated, from foreign countries.

Below are the statistics of imports into this country:

	Amount.	Value.
	<i>Pounds.</i>	
Aug., 1909-June, 1910.....		\$1,020,000
July, 1910-June, 1911.....	41,106,000	2,560,000
July, 1911-Dec., 1911.....	11,286,000	670,000
Jan., 1912-Aug., 1912.....	20,268,905	1,113,483

P. S.—Under present tariff there is a duty of 45 cents per bushel on soya bean, which is a prohibitive rate. If there is a small number of farmers who are raising soya beans in this country, they are well protected under the above prohibitive duty on soya beans.

PARAGRAPH 639—OILS.

BRIEF SUBMITTED BY ANTOINE CHRIS CO., NEW YORK CITY, REGARDING ESSENTIAL OILS.

New York, January 4, 1913.

The WAYS AND MEANS COMMITTEE,
House of Representatives, Washington, D. C.

GENTLEMEN: We beg leave to direct your attention to the radical changes proposed in paragraph 51 of the chemical bill (H. R. 20182), relating to distilled and essential oils and products, 24 of which are transferred from the free list to dutiable provision.

In beginning, it is important that your honorable committee fully appreciate that all of these products are foreign to this country, and not one is capable of growth or production here in commercial quantities, and that all of them are distinctly raw products, and no one of them is suitable for use in the condition in which it is imported. All of these products are used in the manufacture of soaps, medicinal products, disinfectants, deodorizers, perfumes, tooth paste, and dental preparations, and all of which are household necessities having their therapeutic value, and the change in provision from free to dutiable list will so increase the cost of production to the American manufacturer he will be forced to increase the price of his finished product to the consumer in order to afford him a fair and reasonable return for his investment.

The blanket provision for all combinations of distilled and essential oils mentioned in the last part of paragraph 51 might, and probably will, in our judgment, defeat the object of the law, as they are all commercially capable of combination in such proportions as would admit of immediate use in making any of the above-mentioned products and would thereby be subject to a lesser duty than should be paid if imported separately because of the inability of the appraiser to determine the exact proportion of the oils entering into and making up the value of the combined article. As an illustration, oil jasmin, which costs \$14 per pound, origanum white, which costs \$1 per pound, and oil rosemary, which costs 65 cents per pound, could be combined and shipped to this country and billed as mixed oils for soap perfume, and it would be impossible for the Government to determine the dutiable value without the honest assistance of the importer. Under such a condition a reputable importer is at a great disadvantage.

The materials to which we refer have been specifically provided for as free in all tariffs since that of 1883, and, as stated, being raw products impossible of production in this country, we strongly urge that they should continue to be free.

The materials to which we refer and the countries of production are as follows: Oil bergamot, Italy; oil citronella, Java and Ceylon; oil almonds, France and England; oil caraway, Holland; oil jasmin, France; oil origanum, white and red, France; oil chamomile, Germany; oil cedrat, Sicily; oil neroly, France; oil aspic, France; oil valerian, France and Germany; oil limes, Sicily and West Indies; oil thyme, France; oil cassia, China; oil lemon, Sicily; oil anise, China; oil lavender, France; oil rose, France and Bulgaria; oil rosemary, France; oil juniper berries, Germany and Austria; musk, China; civet, Abyssinia; enflurage grease, Grasse, France.

We have the honor to be, yours, respectfully,

ANTOINE CHRIS CO.,
B. T. BUSH, *Vice President.*

BRIEF OF SPENCER KELLOGG & SONS, BUFFALO, N. Y.

SPENCER KELLOGG & SONS,
Buffalo, N. Y., January 29, 1913.

OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: We respectfully request that the following communication be made a part of the hearings by your committee of the proposed changes in the free list and Schedules A and G.

During the past two years we have been investigating the crushing in the United States of various oil seeds, nuts, and beans grown in foreign countries, with the idea of competing with Europe and the United Kingdom, each of which is now extensively engaged in this branch of manufacture and is exporting the oil to this country in great quantities.

In our investigations we have discovered that, although none of the raw materials, with the exception of peanuts, is grown in the United States, there is under the

PARAGRAPH 639—OILS.

present tariff law either a sufficiently heavy duty imposed upon these raw materials and a proportionately low duty on the resultant oil, as to render economic manufacture in the United States a practical impossibility, due to the necessity of importing a dutiable raw material and manufacturing a duty-free product in competition with Europe where the raw material is imported duty free. Or there is no duty on either raw material or oil, which makes it impossible to compete with Europe owing to their cheap freight rates on raw materials, their cheap labor, and their ready market for the by-products (oil cake), almost none of which can be marketed in this country. This condition results in American consumers being forced to buy foreign oils through importers and brokers on foreign terms, paying higher prices than necessary and having little recourse in the case of inferior quality.

We believe that the oils enumerated below can be manufactured in this country with the same success that they are now manufactured in foreign countries, and that the result will be the starting in the United States of industries hitherto untried, with the further result of better and cheaper oil to the consumer.

Let us repeat that none of these oil seeds or nuts is grown in this country, with the exception of peanuts, which article is treated separately in the detailed explanation below. Therefore there can be no injustice done the American farmer by lowering the duty on the materials enumerated below and allowing their crushing in this country.

Some of the materials, the crushing of which we have investigated, are not specifically provided for in the tariff act, thus bringing them under the n. s. p. f. clause for oil seeds, or 25 cents per bushel of 56 pounds.

As this branch of manufacture has been neglected in this country up to this time, we feel that this chemical schedule of the Payne-Aldrich Tariff Act has become obsolete, and that it should be changed in order to allow manufacturers to build up new oil industries in this country similar to those abroad. There has been during the last 10 years a tremendous growth in the oil-seed crushing industry in Marseille, Rotterdam, and the other centers of Europe, most of which growth has been occasioned by the increased demand for oil in the United States. It is our hope that, if the schedule is changed, the United States may be enabled to retain this large business and thereby improve the condition of both the manufacturer and the consumer.

We have given this matter much study, and we respectfully submit to your committee the request that the following be the rates of duty on the following materials. We have given in this schedule a detailed description of each seed, its resultant oil, with the present and suggested duty; a record of the imports into the United States from September 1, 1911, to September 1, 1912, of each oil and, following this data, a condensed paragraph giving materials and the suggested duties:

Shea nuts, present duty, n. s. p. f. (suggested duty, free); shea-nut oil, present duty, n. s. p. f. (suggested duty, 2 cents per pound): This nut is a native of India and is not grown in the United States. It is inedible. The oil when refined is used for edible purposes and when raw for soap-making purposes. This oil was classed under "All other oils" in the import record.

Soya beans, present duty, n. s. p. f. (suggested duty, free); soya-bean oil, present duty, free (suggested duty, 2 cents per pound): A native of Manchuria. Inedible. Not grown in the United States. Oil used for paint purposes and for soap making. Imports during 1912, 26,230,061 pounds.

Mowra seeds, present duty, n. s. p. f. (suggested duty, free); mowra oil, present duty, n. s. p. f. (suggested duty, 2 cents per pound): This seed is a native of India. Inedible. Not grown in the United States. Resembles the peanut. Oil used for soap and, when refined, for edible fats. No imports during 1912.

Niger seeds, present duty, n. s. p. f. (suggested duty, free); niger oil, present duty, 25 cents (suggested duty, 2 cents per pound): Native of India. Not grown in the United States. Inedible. Oil used for soap and, when refined, for edible purposes. Classed under "All other oils" in imports.

Sesame seeds, present duty, 25 cents per bushel (suggested duty, free); sesame oil, present duty, free (suggested duty, 2 cents per pound): Native of India. Now grown in the United States. Oil used for soap and edible purposes. Imports during 1912 classed under "All other oils."

Palm kernels, present duty, free (suggested duty, free); palm-kernel oil, present duty, free (suggested duty, 2 cents per pound): Native of Africa and South America. Not grown in the United States. Inedible. Oil used for soap and, when refined, used for edible purposes. Oil imports during 1912, 29,232,889 pounds.

Peanuts, present duty, shelled, 1 cent per pound (suggested duty, free); ground nuts, present duty, unshelled, one-half cent per pound (suggested duty, free); peanut oil, present duty, free (suggested duty, 2 cents per pound): Native of Africa.

PARAGRAPH 639—OILS.

Oil used for edible purposes. Imports during 1912, 6,878,237 pounds. Peanuts are grown in some of the Southern States, but are almost entirely exported to France or used here for roasting or eating. These are of a superior quality to the African nuts, and are in consequence used for edible purposes and command a premium and are not crushed. The African peanuts, on the other hand, are used entirely for crushing purposes and do not therefore compete with the American peanuts. The American nut is grown in quantities insufficient even to supply the demand for a roasting peanut. We will suggest that the words "for crushing purposes only" be inserted in the new schedule as applying to peanuts.

Candle nut, present duty, free (suggested duty, free); candle-nut oil, present duty n. s. p. f. (suggested duty, 2 cents per pound): Not grown in the United States. Used for burning and soap purposes.

SUMMARY.

Free list.—Shea nuts, soya beans, mowra seeds, niger seeds, sesame seeds, palm kernels, groundnuts or peanuts for crushing purposes only, candle nuts.

Duty 2 cents per pound.—Shea-nut oil, soya-bean oil, mowra oil, niger oil, sesame oil, palm-kernel oil, peanut or ground-nut oil, candle-nut oil.

In conclusion, may we express the hope that our requests will be granted and the chemical schedule changed according to our suggestions. Should this be done, we are sure that great benefit will result to both the American manufacturer and the American consumer.

Very respectfully, yours,

SPENCER KELLOGG & SONS (Inc.).
GEO. H. SICARD.

BRIEF OF THE BLANTON CO., ST. LOUIS, MO.

ST. LOUIS, Mo., *January 13, 1913.*

Hon. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.

SIR: It has been called to our attention that under the proposed new tariff law that peanut oil, such as is now imported into this country, will be subjected to a heavy duty.

We believe that if you and the other Members of Congress fully understood the conditions under which this oil is bought and used, you would understand that this duty would help no one, and would eventually be a tax upon the cost of living.

The oil that is now brought into this country is pressed from peanuts raised in Africa. These peanuts are not anything like our commercial peanuts, and there is no nut grown in this country that will produce the same oil that is now being imported.

Neither is there any oil in this country that can be substituted for this peanut oil for the use in butter substitutes. In fact, the blending of this oil with cottonseed oil allows us to use more of the cottonseed oil than would be used should peanut oil be barred from use.

As probably 98 per cent of the peanut oil now introduced into this country is used in the manufacture of oleomargarine, which is a substitute for butter and is used by the people of moderate means, it can be seen that to tax this article would be to tax the food cost to these people because the manufacturer would be compelled to raise his prices in keeping with the cost of raw material.

This product is now heavily taxed and is in no way able to carry any additional burden.

All the above is very respectfully submitted for your consideration.

Very truly,

THE BLANTON CO.,
D. A. BLANTON, *President.*

PARAGRAPH 640.
Oleo stearin.

PARAGRAPH 641.
Orange and lemon peel, not preserved, candied, or dried.

PARAGRAPH 642.
Orchil, or orchil liquid.

PARAGRAPH 644—PAPER WASTE.

PARAGRAPH 643.

Ores of gold, silver, or nickel, and nickel matte; sweepings of gold and silver.

PARAGRAPH 644.

Paper stock, crude, of every description, including all grasses, fibers, rags (other than wool), waste, including jute waste, shavings, clippings, old paper, rope ends, waste rope, and waste bagging, and all other waste not specially provided for in this section, including old gunny cloth and old gunny bags, used chiefly for paper making.

PAPER WASTE.

BRIEF OF THE ASSOCIATED DEALERS IN PAPER MILL SUPPLIES OF NEW YORK.

To COMMITTEE ON WAYS AND MEANS,
Washington, D. C.

GENTLEMEN: Directly representing the Associated Dealers in Paper Mill Supplies of New York, and indirectly representing the interest of a large number of paper manufacturers of the United States, we present for your favorable consideration the revision of a section of the existing tariff act, which, owing to its faulty wording has been a source of much unsatisfactory litigation and expense to the Government as well as manufacturer and importer.

We make no appeal for special privileges to be derived by raising or lowering duties, but respectfully and strongly urge that the new section or sections not only be made clear and unequivocal, but that in the wording of same due regard be paid to the character of the commodities affected, with a view to avoid demanding gradings and distinctions, which the character of the merchandise itself—a waste material—makes impossible or at least most uncertain.

We desire to call the attention of your honorable body to the ambiguity of section No. 644 of the tariff act of 1909.

This section reads as follows:

"Paper stock, crude, of every description, including all grasses, fibers, rags (other than wool), waste, including jute waste, shavings, clippings, old paper, rope ends, waste rope, and waste bagging, and all other wastes not specially provided for in this section, including old gunny cloth and old gunny bags, used chiefly for paper making."

One of the judges of the United States Board of Appraisers has stated that, with the exception of "rotten fruit," the section referring to paper stock has caused more trouble and unsatisfactory litigation than any other section in the act.

It will be noted that the last clause of this section, descriptive of the commodities in question, reads "used chiefly for paper making."

Paper stock is a raw material and consists of so many grades of papers, rags, fibers, wastes, etc., that it includes among its various grades some articles which are used for other purposes than paper manufacture, and when such is the case there is very apt to be litigation between the Government and the importer in order to determine its "chief" use, as specified in the section.

If it can be proven that the material in question is used "chiefly for paper making" the article is passed free, otherwise it is usually assessed as dutiable at 10 per cent as "waste not specially provided for."

In the acts prior to the present tariff act, the last clause of the section read: "Suitable only to be converted into paper." Inasmuch as many articles commonly used in the manufacture of paper can, to a limited degree and under special conditions be used for other purposes than paper making, the litigation was continuous and unsatisfactory.

It was hoped that the new phraseology "used chiefly for paper making" would obviate most of the trouble, but experience has shown that it has failed to do so, and it frequently happens that an imaginative appraiser thinks of some use to which the commodity might be applied other than paper making and assesses the material at 10 per cent as "waste not specially provided for," causing trouble and expense to both the Government and the importer in their endeavor to substantiate or disprove the contention of the appraiser.

The principal articles which have caused the trouble have been various grades of flax, jute, and hemp waste and old gunny bagging and old gunny cloth.

PARAGRAPH 644—PAPER WASTE.

There are certain grades of waste composed of flax, jute, and hemp which, while suitable for paper making, may also be used for spinning or for other purposes.

There is always trouble when this character of material is imported, and the evidence bearing on its "chief use" is frequently unconvincing and unsatisfactory to all concerned.

Whether the material is used for paper stock, spinning, or for other purposes, it is invariably a raw material and must be remanufactured in this country in order to be made fit for the ultimate purposes for which it is imported.

Under these conditions we contend that the material should be free and that the section of the tariff act covering these articles should be so worded that there may be no doubt to either the Government or importer whether merchandise in question is to be allowed free entry.

Practically the same arguments apply on old gunny cloth and old gunny bagging. This material has been the subject of continuous litigation between the Government and importer for a great many years, and in spite of numerous Treasury decisions on the subject, no relief has been found.

It has been decided that old gunny bagging composed wholly of small pieces—called scrap gunny—be allowed free entry as rags, but that bales containing all large pieces, or large and small pieces mixed, shall be dutiable at 10 per cent as "waste not specially provided for."

While it occasionally occurs that some selected large pieces are packed separately and imported into this country, a large amount of the material, being essentially a waste product, is packed without regard to the size of the pieces contained therein, just as cotton rags or other waste fabrics are packed, and the result is that practically every shipment is passed upon, according to the particular bale delivered to the public stores for examination.

The Government has gone so far as to have photographs made of various sheets of gunny, to serve as a guide in determining what is and is not dutiable. If the sheet is a certain size and has only a certain number of rents or holes in it, it is dutiable at 10 per cent. The same size pieces with a few more or larger rents or holes is free, while a smaller piece with fewer rents or holes is dutiable.

This system, while evidently inaugurated in good faith, is absolutely unsatisfactory, and the importer never knows whether he has to pay duty on a shipment or not until after arrival and examination of the goods by the customs authorities.

A single invoice part of which has been short shipped will occasionally arrive on two steamers, one shipment being assessed at 10 per cent, and the other shipment passed free, and yet the merchandise was supposed to consist of but one grade.

Under the tariff section as it now reads there is absolutely no way of determining what action the Government will take relative to any importation of old waste gunny bagging. The Government is powerless to remedy this condition unless the wording of the paragraph relating to the commodity is changed.

We contend that old waste gunny bagging, whether in large pieces or small pieces, should be free, and our contention is based—

First. Upon the fact that old gunny bagging is not only a waste material, but is also a raw material for our American manufacturers, whether for paper making, spinning, or other purposes. Gunny bagging is made principally from jute, and both jute and jute butts are free under section No. 578 of the present tariff act, and there is no logical reason why a waste material composed of these fibers should be dutiable.

Second. That old gunny bagging originally comes from bales of American cotton, which have been exported and the bagging returned to this country as waste. The bagging, therefore, has either been manufactured in this country, or if made abroad, has paid duty as new bagging when it was originally imported for covering bales of American cotton.

We therefore urge that in place of the present section No. 644 above quoted, there be three sections to cover the commodities involved, and we respectfully suggest the following:

First. Paper stock, crude, of every description, including all grasses, fibers, rags (other than wool), waste, including jute waste, flax waste, hemp waste, shavings, clippings, old paper, rope ends, waste rope, and waste bagging and all other waste not specially provided for in this section, suitable for paper making, free.

Second. Jute waste, hemp waste, flax waste of whatever grade, free.

Third. Old gunny bagging, or old gunny cloth, whether in large or small pieces, free.

In the past, although the Government has collected various amounts in duties on the commodities covered by the above sections 2 and 3, we doubt whether there has been any real net revenue to the Government, as we believe the cost of litigation has more than offset the duties collected.

PARAGRAPH 644—PAPER WASTE.

We believe that if any raw material is entitled to free entry, all the above-mentioned commodities should unquestionably be on a free list. If, however, the need of revenue makes it imperative that duty be charged on old gunny bagging or jute, hemp, or flax waste, then we urgently ask that the duty be made specific and not ad valorem.

If specific, no question can arise as to the amount of duty involved; whereas, if ad valorem, fluctuations in price involve penalties, litigation, and unnecessary expense and annoyance to both the Government and the importer in determining the proper duty to be assessed.

We would further ask that, whether you decide that old gunny bagging be free or dutiable, the same ruling be made to apply on all old gunny bagging, whether same be composed of large pieces, small pieces, or a mixture of both, as it is impossible to attempt to specify gradings of this material without opening the way to continuous and expensive litigation.

We believe that the judges of the United States Board of Appraisers will corroborate our statement that section number 644 of the tariff act of 1909 is ambiguous and unsatisfactory and the cause of an unusual amount of litigation, and that it should be replaced by a section or sections that will state clearly and without ambiguity what articles are and are not dutiable.

Respectfully submitted.

THE ASSOCIATED DEALERS IN PAPER MILL SUPPLIES OF NEW YORK.
JAMES PIRNIE,
ADOLPH E. SALOMON,
FRANK C. OVERTON,
Committee.

Members of association.—Atterbury Bros. (Inc.); Ira L. Bebee & Co.; Box Board & Lining Co.; Darmstadt, Scott & Courtney; Michael Flynn; P. Garvan (Inc.); E. Cross & Co.; Daniel M. Hicks; John H. Lynon & Co.; Geo. W. Millar & Co.; Michael McGuire; J. B. Price; Perkins, Goodwin Co.; Adolph Salomon; Salomon Bros. & Co.; M. Shea Paper Stock Co.; Wilkinsons Bros. & Co.; J. Andersen & Co.; Edwin Butterworth & Co.; Chase & Norton; Castle, Gottheil & Overton; Gatti McQuade Co.; Richard Godfrey; Wm. Hughes & Co. (Inc.); George Carrizzo & Co.; Main Paper Stock Co.; Marks Maier; Maurice O'Meara & Co.; M. Pascarella; Thos. Smith & Son; Felix Salomon & Co.; L. B. Shoenfeld & Co.; Troiano & Defina; Parsons Trading Co.

PARAGRAPH 645.

Paraffin.

PARAGRAPH 646.

Parchment and vellum.

PARAGRAPH 647.

Pearl, mother of, and shells, not sawed, cut, polished, or otherwise manufactured, or advanced in value from the natural state.

PARAGRAPH 648.

Personal effects, not merchandise, of citizens of the United States dying in foreign countries.

PARAGRAPH 649.

Pewter and britannia metal, old, and fit only to be remanufactured.

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.**PARAGRAPH 650.**

Philosophical and scientific apparatus, utensils, instruments, and preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe.

For surgical instruments, see also Schedule C., p. 2138.

SURGICAL INSTRUMENTS, ETC.**TESTIMONY OF C. R. CORBIN, OF THE RANDALL FAICHNEY CO.,
BOSTON, MASS.**

The witness was duly sworn by the chairman.

Mr. CORBIN. We wish to protest against the duty-free entry of surgical instruments, apparatus, etc., by hospitals, for the following reasons:

First. There are employed in our factory more than 200 American instrument makers, the majority of whom receive from \$18 to \$28.50 a week.

Second. We are one of over 200 surgical instrument makers, these various makers employing at actual manufacturing from four men upward.

Third. We wish further to protest against the brief of George F. Clover, superintendent of St. Luke's Hospital, New York, because of its unfairness, who claims that high-grade surgical instruments can not be manufactured in this country. This is a misrepresentation of the facts, because it is a well-known fact that instruments of the very best quality are made in the United States and used by our most skilled surgeons.

Mr. HAMMOND. Exported from the United States?

Mr. CORBIN. No; they are manufactured in the United States.

Fourth. The Department of Commerce and Labor some months ago refused to issue certificates of accuracy on foreign-manufactured fever thermometers, because the variations were too great for actual use.

Now, I may add that we are particularly at a disadvantage in the manufacture of surgical instruments in this country, because the doctor is an ethical gentleman and does not believe in patenting his ideas. A man in St. Louis comes to us, or to a firm such as I represent, and asks us about getting out a cystoscope, an instrument scientific enough to tap a man's kidneys without cutting him open. Such instruments have been designed and have been worked out by American surgical instrument manufacturers. Our doctor is also unpractical, because we can not charge him for patron work, so we make this instrument at practically a loss. We create a market for it, and after we have created a market and it becomes universally used, and written about in the medical journals, the German importer takes our instrument which we have no patent on—the doctor will not patent—takes it over to Germany, and in about 90 days we have the instrument on the American market at about 25 per cent less than we can make it and make a profit. The firm I represented

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

last year made a profit sufficient to pay 7 per cent on preferred and 3 per cent on common stock. We are an incorporation.

There is an instrument maker in Indianapolis who is a very scientific man, a man of wonderful genius, and he has devised many instruments at the suggestion of the medical profession, and I was talking to him in Chicago not long ago, and I said, "Mr. Schmidt, what do you make out of your business?" "Well," he says, "I have a whole lot of fun, because it is a work that I like, but after I had paid my rent and my men last year my average salary was \$18 a week." Now, we could go on indefinitely. Dr. Kelley, of Johns Hopkins, for instance, has invented and designed many instruments that have been made in this country, and after they become enormously popular they have been taken by the German manufacturers and duplicated and sold at a less price than we could afford to make them, and some of these instruments we have had to discontinue making on that account. One other instrument that stands out is a needle holder. There was a needle holder invented in New York that possibly is the best needle holder that was ever made. The needle holder was copied by the German manufacturers, and although it was imported in this country against the duty, it is no longer a profitable article to make, and so we feel in view of these facts that it would work a hardship on us if the hospitals could import, duty free, because, as we heard yesterday, a young doctor serves as an interne in the hospital after he has graduated; the older doctor from whom he takes instructions is on the board of directors and knows about what the hospital pays for things. Now the situation is this: That when one of our representatives goes to that doctor and asks him to pay \$1.50 for a speculum that the duty had been paid on, and he knows that the hospital has been buying it for 95 cents, it puts us at a disadvantage. Now, when you say the hospitals do not sell instruments, or when that claim is made, it is an unfair statement; for instance, clinical thermometers are sold to nurses for 35 cents each, and they cost wholesale about 28 cents. Now, after the nurse who has served her time goes out into general practice, she can not understand why she has to pay 75 cents for the thermometer. And I could cite other cases if you cared to take the time.

Another case that comes up is in the operating tables. Now, when the statement is made that the foreign countries are far advanced in surgical cases, I think it is distance that lends enchantment. It is a fact that the best operating tables are designed in this country and are copied abroad. For illustration, there is an operation necessary to lift a person up in such a position [illustrating]. Now, the patient is brought in and laid upon the towel, two assistants lift up the towel, and the little bench is slid under him. In America we turn a wheel and raise the patient a fraction of an inch at a time and place him in position.

Another point is the X-ray business. Now, the medical profession criticized the X ray very severely when it came out, even after it had received the indorsement of such men as Mr. Edison. I know that the first X-ray outfit put in a hospital was put there on consignment, and it took considerable salesmanship on the part of the surgical-instrument men to induce hospitals to put in the X-ray outfit. They now

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find they are of great service, and it appears the Germans can manufacture these outfits cheaper than we can in this country, and if the duty was repealed it would hurt the electrical surgical side of our business tremendously.

Mr. RAINEY. In connection with the general schedule I would like to print into the volume the statistics as to certain New England mills, issued by Hawes, Tewksbury & Co., members of the Boston Stock Exchange, in a circular of November, 1912, the last circular they have issued in connection with the woolen schedule. I would like to print in the record an analysis of the report on Farr Alpaca, Holyoke, Mass., woolen mills, the first woolen mill report for 1912 to make its appearance, which appeared in the Springfield (Mass.) Daily Republican of Thursday, January 28. And in connection with the metal schedule, I would like to print in the record a letter addressed to me by Mr. George J. Gruen, a large manufacturer, of Cincinnati, Ohio, asking for a hearing at some time after the 5th of February, which, of course, can not be granted, but inasmuch as his letter contains much valuable information on this subject, I want to ask permission to print it in the record. And also I would like to print in the record the brief on the Parker rates submitted by Mr. Parker in connection with the cotton schedule, which is being prepared by Mr. Edward B. Shipley, of 49 Leonard Street, New York, an importer and commission merchant who appeared before us.

The CHAIRMAN. We will be glad to grant this privilege.

WASHINGTON, D. C., February 1, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means, Washington, D. C.

RESPECTED SIR: We wish to protest against the duty-free entry of surgical instruments, apparatus, etc., by hospitals for the following reasons:

First. There are employed in our factory more than 200 American instrument makers, the majority of whom receive from \$18 to \$28.50 a week.

Second. We are one of over 200 surgical instrument makers, these various makers employing at actual manufacturing from 4 men upward.

Third. We wish further to protest against the brief of George F. Clover, superintendent of St. Luke's Hospital, New York, because of its unfairness, who claims that high-grade surgical instruments can not be manufactured in this country. This is a misrepresentation of the facts because it is a well-known fact that instruments of the very best quality are made in the United States and used by our most skilled surgeons.

Fourth. The Department of Commerce and Labor some months ago refused to issue certificates of accuracy on foreign-manufactured fever thermometers because the variations were too great for actual use.

Respectfully submitted.

THE RANDALL FAICHNEY CO.,
C. ROSS CORBIN, Boston, Mass.

**TESTIMONY OF CHARLES J. PILLING, REPRESENTING MESSRS.
G. P. PILLING & SONS CO., OF PHILADELPHIA, PA.**

Mr. PILLING. This is paragraph 650. It is incorrectly stated in the calendar.

As seen from the standpoint of a manufacturer of surgical instruments, a double blow and a most dangerous one is aimed at the surgical-instrument industry of this country.

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

Not only is it proposed to reduce the tariff on surgical instruments from 45 to 25 per cent, but an attempt, we understand, is also being made to admit surgical instruments to hospitals free of duty. If this double blow is landed, the surgical instrument mechanics and employers of this country will be turned out of business.

It is a well-known fact that hospitals use more than one-half (probably two-thirds) of the surgical instruments that are sold, because in these advanced times practically all surgical operations are performed in hospitals.

To show how unjust the request for free duty is, the writer has within the last few days communicated with the St. Luke's Hospital of New York, the superintendent of which, I understand, is to appear before you to request free duty on surgical instruments for hospitals.

While communicating with the St. Luke's Hospital I found that the patients in the free ward are charged \$10.50 per week.

On January 16, 1913, every private room (there are 65 private rooms in St. Luke's Hospital) was occupied, and there was a waiting list.

A few days ago the only private room in St. Luke's Hospital available was \$10 per day or \$70 per week.

Terms: Payable two weeks in advance; only two rooms on each floor as low as \$24.50 per week; others at \$35, \$49, and \$84 per week.

In addition to the charge for the private rooms, there are also extra charges, as follows:

For private nurse, which means two nurses, one night and one day nurse, \$28 each, \$56 per week.

There is also a charge for each nurse's board. We do not know the exact figures; but in other hospitals it ranges from \$7 to \$12 per week.

Also, the patient is charged for the nurse's laundry.

There is an additional charge for use of the operating room of \$10 each operation.

There is an additional charge for the assistant who gives the ether of \$5 to \$10 per operation.

Charge of ambulance, \$5 to \$10; also, for open fire, \$1 per day; telephone (5-cent calls), 10 cents each.

Then there is another charge for each time the resident physician visits the patient of \$3 per visit. Please note this charge of \$3 paid by the patient for each visit of the resident physician.

The resident physician is one just graduated from a medical college, who is very anxious to serve one year in hospitals for the experience. A very few receive \$25 to \$50 per month.

These resident physicians can make many calls in the private rooms in the course of a day. Let us say 10 calls per day, which would mean 300 calls per month, or \$900 for this service.

Who gets the difference between \$40 or \$50 salary and the \$900 collected?

Up to this time we have not spoken about the fee of the surgeon, which we all know is by private arrangement from \$50 to \$5,000, and in some extreme instances up to \$10,000.

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Let us look around and see if there are other sources of revenue, and in order to do so I will read an extract from a letter received from another hospital on January 24, 1913:

NEW YORK ORTHOPÆDIC DISPENSARY AND HOSPITAL,
126 EAST FIFTY-NINTH STREET,
New York City, January 23, 1913.

Received your last letter, but the catalogue wanted was for brass handles, as we have a machine shop and make our own instruments.

Please note that this is from the New York Orthopædic Dispensary and Hospital.

This is no exception, because in other cities some hospitals have their workshops for making surgical needs.

There is a hospital in a near-by city containing 50 private rooms, ranging from \$25 to \$110 per week. It is reported that in this hospital one of the many surgeons does enough operating on private patients to keep busy an average of 20 nurses. This hospital also has a shop of its own making surgical appliances.

What chance would the American manufacturer have with hospitals making part of their instruments and importing free of duty the balance?

Still another, having over 70 private rooms, at from \$28 to \$150 per week, plus extras.

In Philadelphia a certain hospital takes only charity patients, but they have an annex in another part of the city for which they refused \$3,000,000 (on which no taxes are paid or never have been paid). This annex has several hundred rooms for private patients only, from whom they receive from \$25 to \$60 per week.

What is a hospital, and how many are there? The census report states that there are nearly 5,000. The late medical directory gives, however, 8,000.

The word "hospital" is so indefinite that it is absolutely impossible to draw the line as to where private practice stops and hospital practice begins.

It is a well-known fact that private practice in hospitals results in princely incomes to the surgeons and practitioners associated with the different hospitals.

While it is true that there are many so-called charity cases treated free, it is also true that the physicians themselves have formed committees in their societies to fight the so-called hospital abuse, because many of these charity patients are able to pay.

As late as January 13, 1913, I believe, Mr. Underwood is quoted as saying (Philadelphia North American, Jan. 14, 1913):

Where there is a large percentage of imports we do not want to cut the rates. We are desirous, however, of cutting the rates where there is not competition and no revenue.

Surely the surgical-instrument business has competition of the keenest kind, when more than one-half of the surgical instruments now used in this country are imported.

If you reduce the tariff, your revenue is decreased; and if instruments for hospitals are admitted free of duty, the manufacturer in America can not stay in business. Surely when it reaches the point that hospitals are running their own surgical-instrument shops and

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where other hospitals have a waiting list for private rooms that cost \$70 a week, not mentioning the other extras, it would be most unfair to place instruments on the free list.

I have here a sworn statement from a surgical-instrument maker, who learned his trade in Germany. He received no wages while learning his trade, but, on the contrary, his father paid 100 marks per year so he could learn it. After he learned his trade and became a man, he worked in Germany, Holland, France, and England, earning from \$3.12 per week to \$10 per week.

In this country boys are paid from \$4 to \$9 per week while learning, and when they become journeymen instrument makers they earn more than double the amount of the German mechanics in the same line. The majority of cost of instruments is labor.

Why should the tariff on surgical instruments be reduced to 25 per cent; and, furthermore, why should hospitals who are doing a very large and profitable business be entitled to free duty? Probably you will say that surgical instruments are in the omnibus clause and many of the articles in that clause must be reduced in duty.

Surgical instruments are now under clause 199, along with silverware, steam rollers, fishhooks with feathers, aeroplanes, brass beds, metal statuary, antique armor, old cannons, etc. How absurd to classify an instrument for delicate eye operations with a steam roller or an aeroplane.

Perhaps aeroplanes and steam rollers should enter at 25 per cent duty, but certainly not surgical instruments, because so easily classified they should be at least at the cutlery standard, for as a matter of fact a large percentage of the imported surgical instruments come right from the cutlery district of Germany.

Surgical instruments of special design are continually and quickly needed for operations meaning life or death. If our surgical industries are crippled our factories can not be operated, and if not operated the American surgeon will be dreadfully handicapped.

How about our Army and Navy? This is of grave importance.

We should consider the relation of surgical instruments to the Army and Navy in time of war. If American makers of surgical instruments are forced out of business and the supply of instruments from abroad is cut off, our Army and Navy would be in a most embarrassing position. Foreign importations would be prevented by the enemy, and at such times surgical instruments are as necessary and important as ammunition.

Finally, we ask that you do not reduce the tariff of surgical instruments to conform to steam rollers, old cannons, brass beds, and antique armor.

Also, we ask that hospitals be not allowed duty free, or any other unfair class legislation.

Gentlemen, I have shown you some prices private patients are paying in these hospitals. St. Luke's, which we have been talking about, a few days ago had a waiting list for patients; another day the cheapest room you could get there was \$10 a day. Where does all that money go to? These institutions are conducted for the profit of the surgeon who comes in and operates.

We are very much in earnest about this. The hospitals use more than one-half of the instruments that are consumed now, and if they

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

are allowed to import them free of duty there will not be any business left for the American surgical-instrument worker.

I am not down on charity; I believe in it, but it is not charity to ruin three or four hundred little dealers. There are little dealers all over this country who have maybe two or three workmen working for them; others have perhaps seventy-five or eighty or a hundred. And it is not true that surgical instruments can not be made in this country if we have as fair a chance as they have abroad. I show you some of our instruments. We can make anything in this country. And talk about cheapness—the hospitals, through competition in this country, can buy almost at wholesale prices.

TESTIMONY OF F. H. THOMAS.

The witness was duly sworn by the chairman.

Mr. THOMAS. Mr. Chairman and gentlemen of the committee, the American Surgical Trade Association, made up of 200 retail dealers of surgical instruments and allied lines, wish to protest against the duty-free entry of surgical instruments, apparatus, etc., by hospitals, for the following reasons:

First. There is employed in our industry, invested in plants and merchandise, approximately \$4,000,000. There is employed in transactions approximately \$10,000,000, involving about 20,000 people as employers and employees.

I refer to employers here because our shops, as a rule, are very small and very often a man may be his own employer; that is, there may be only one or two people engaged in a small shop in the smaller towns. The industry which we represent has been built up only under the greatest possible sacrifice on the part of those engaged in this industry and only, in a substantial way, during the past 10 or 15 years. Previous to this time our industry was of slight assistance to the surgeon and physician in constructing the newer devices and assisting in preventive medicine and, although we do not lay great claim to the part that our industry has played in the newer surgical instruments and newer medicines, we do claim that the American doctor and hospital would have been greatly handicapped without the assistance that our industry has rendered.

I would like to say that perhaps 33½ per cent of our dealers maintain small shops for the manufacture of newer instruments and for orthopedic apparatus which deals largely with chronic cases, which can only be treated on the ground under the direction of the surgeon, with the assistance of the mechanic having the apparatus in charge.

The removal of the tariff for these institutions would greatly reduce the efficiency, if not obliterate it, which in turn would act to the disadvantage of the institutions asking for the removal of the duty and particularly to the ninety millions of others, all of whom must, in a measure, be interested in preventive medicine.

Second. It has been with great difficulty, even with the protection accorded our industry, that business and considerable efficiency have been attained in this country, as the manufacturing in Germany has been done, for the most part, by the individual family, employing almost all its members, and over long periods of hours each day,

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

all of which is prohibitive in this enlightened country. The German mechanic receives not more than one-half the daily wage received by American mechanics and the free entry of instruments would certainly be far-reaching in its effects on the general efficiency, not only to the hospitals but to the community at large who buy more and more apparatus pertaining to our industry.

Third. We estimate that at least 60 per cent of the surgical instruments and allied articles in our line are at the present time imported, and this small percentage covers only over a short period of years as it is well within the experience of the younger men in our industry that 80 to 90 per cent of our goods have been imported.

Fourth. The adoption of the clause permitting hospitals to import duty free is open, in our judgment, to great abuse, as we find upon referring to the census report of 1904 that they list only 4,292 hospitals as being of a charitable or public nature, whereas the recent report of the principal Gazetteer gives the great total as 8,176, making nearly 50 per cent of the hospitals of a private nature, run for profit only.

Again, it must be admitted by the petitioners for this clause, that only a small percentage of the service rendered by 4,292 hospitals is free. It must be remembered also that the endowments and subscriptions made to these institutions represented by the petitioners have been given by good Americans, under our American system, and we do not believe that the benefactors of these institutions would seek to have class legislation for institutions that should be wholly
 . . . democratic.

That is to say, if you will glance aside for a moment, it is very hard to compile in some instances, but the revenue from pay patients, I should say, is equal to the expenditures of the hospitals, and probably 50 per cent of their revenue is derived from pay patients. That does not, on the other hand, defeat the claim of the petitioners, perhaps, but it does go to show that a good deal of the hospital work now done is done at a profit, and the hospitals are the ones who clamor for this privilege, and I do not see how any line of demarcation can be drawn. It does not go to show that great abuse would not result from this clause if the bars are let down to all the hospitals that do any charity work.

Fifth. It must be of immense importance to the Federal Government to know that the available stock of surgical instruments and allied lines would be greatly jeopardized in case of war should any class legislation permit the weakening of the present American industry in this line. We venture to state that not 50 per cent of the present stocks would be maintained under the duty-free entry to hospitals, as a large percentage of our business is done directly with hospitals. It would also mean, in our judgment, that the German houses would put representatives into our fields calling directly on the hospital trade and that the efficiency now maintained in our industry would be reduced to the minimum and many houses would absolutely close their doors on account of this new proposed arrangement.

Sixth. We are led to believe that the duty on our goods will be reduced from 45 per cent ad valorem to 25 per cent ad valorem, and,

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should this be the case, we then think, with this marked reduction of almost 50 per cent, that there is less excuse than there ever has been for class legislation.

Seventh. In view of the fact that practically 50 per cent of the hospitals in this country are run for profit (and profit only) all of whom would be eligible, under the proposed change, to import free of duty by the mere maintenance of a single free bed or the subscriptions of a few friends, however small, to the work of any particular private institution, there would be an opportunity for one of the worst problems the customs officials have ever had to deal with.

In view of the proposed reduction, which is liberal indeed, and the fact that American institutions are maintained by direct taxation as well as by American contributed money, we do not believe your honorable body will countenance class legislation.

And if I have time I should like to cite two or three instances.

The CHAIRMAN. Your time is just up, but you may have a few minutes.

Mr. THOMAS. The petitioner referred to salvarsan, and the layman should not be ignorant about this. A false modesty has been urged in this matter. This is a specific for syphilis. As a matter of fact probably not 1 per cent of the institutions of this country, of the hospitals, except a few private hospitals, will accept these syphilitic cases for treatment. In Boston I know of only one outside of those of a public nature, and that is really a private hospital, but it can be conceded that we are willing to give every advantage of the doubt in this case. It has not been long ago that a gentleman, now present in this room, told me that an agreement had been made between doctors whereby they would only administer this treatment at a price of \$25. If it is a fact that the worst menace this world has can not be treated in the hospitals, as they are at present organized, then there is some excuse, perhaps, for our contention that there would be abuses if they are not open to do the greatest work that hospitals have ever had to do; then we feel there is some reason for contending that perhaps they are not entitled to this great privilege, this class legislation.

There is another item, and that is blood-pressure apparatus, which has been absolutely promoted in this country by the dealer, and for that reason doctors have now come to recognize that blood pressure is as important as the clinical thermometer, and the promotion of blood-pressure apparatus has been done absolutely by the dealers. I do not say that the intelligence of the doctors has not approved that, but, as a matter of fact, we would have been 10 years coming to blood pressure, while through the efforts of the dealers we have come there in a matter of 12 or 15 months, and I could repeat endless instances of that sort.

We have nothing against charity; we have nothing against the hospital; we believe it is a great institution, and nothing should be done to hamper it, but if the granting of this privilege will hamper the industries built up around it to the extent that it will give inefficiency for the great mass of people who employ us for preventive measures, and also handicap the hospitals themselves, because they can not get the supplies, and 80 per cent, I venture to say, of the hospitals will not be able to import anyhow. They can not antici-

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pate their needs. It is the rich institutions, like St. Luke's, who can buy \$25,000 worth of scientific apparatus, who can avail themselves of this privilege, but the rank and file, even the municipal hospitals, can not, to a great extent, avail themselves of this privilege.

TESTIMONY OF DR. GEORGE F. CLOVER, NEW YORK, N. Y.

The witness was duly sworn by the chairman.

Dr. CLOVER. Mr. Chairman and gentlemen of the committee, I appear in behalf of a subcommittee of the American Hospital Association, a body comprising 1,100 members, representing 600 of the leading hospitals of the country.

We petition that section 650 of the tariff act be so amended as to include among the institutions authorized to import instruments and utensils and medical preparations, including Roentgen or X-ray plates, free of duty hospitals rendering medical and surgical aid free of charge. In the list of institutions now permitted to import their instruments free of duty are those established for educational and scientific purposes. I submit, gentlemen, that the hospitals which we represent are educational, are scientific, and are also charitable institutions.

They are educational because they maintain training schools for the training of nurses, who are taught to become nurses of the country. These training schools are recognized by the departments of education of their respective States, and are brought under the rules and regulations of those departments. They are educational because they receive medical students from the various medical colleges for educational work, and it is in these hospitals that the medical students receive the practical part of their education. Medical schools of the country are now taking the ground that they will not graduate their medical students unless they have a certain term of service in our hospitals. It is within the walls of our hospitals that physicians and surgeons get their knowledge, their expert knowledge, which make them the prominent physicians and surgeons of the country.

Our hospitals are scientific because within the wards of the hospitals observations are made and classified which make up the medical and surgical data and knowledge of the country. They are scientific because within their laboratories diseases are investigated, and the prevention and cure for disease is often found. Our Government has encouraged science, it has encouraged education, it has encouraged art, it has encouraged literature; but to the greatest of these—charity—is given no such consideration.

We ask that instruments be placed on the free list, for the reason that a great many of the instruments used in hospital surgery are not made at all here. Other instruments are not made so good as those which we get from abroad. Other instruments are of very good quality, those made of the softer metals, which we do use and which we shall continue to use. Of the scientific apparatus, a great many are not made here at all. Others, such as lenses for our microscopes, are not nearly as perfect. The surgeons, appreciating the need of the

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best instruments and the best scientific apparatus where life and death is concerned, refuse to use many of the instruments made in this country.

As an evidence of the scientific work of our institution, I submit a volume of surgical and medical reports of the hospital which I represent, in New York—St. Luke's Hospital. Such reports add a great deal to the scientific knowledge of the country.

Mr. JAMES. What effect would this have on the revenue?

Dr. CLOVER. I think very small, sir. The surgical instruments manufactured in this country are below \$1,000,000—somewhat over \$500,000. The scientific instruments and the surgical instruments combined, I understand, amount to less than \$6,000,000.

Mr. JAMES. How would he distinguish between—

Mr. HILL. Will you, for the benefit of the committee, try and distinguish between the classes of hospitals and educational institutions that now have the privilege of free admission, and those that do not have? Is it not practically down to the point where those doing business for profit do not have the privilege, and those which are purely educational do have it?

Dr. CLOVER. I am making my plea sir, here for charity; not for institutions that exist for the purpose of making profit. There are in this country about 6,000 hospitals; 3,000 of that number may be classified as public or semipublic hospitals. The best work done in the country is not done in what we may style public hospitals, but the voluntary hospital sometimes called the private hospital, which is of a very high order of institution. That does the educational and scientific work, and a large proportion of its work is free work. Medicine and surgery could not have reached the state of perfection they have reached without these hospitals, and we could not hope for very much progress in the future if these institutions did not exist and were not encouraged. Our hospitals are becoming more educational and more and more scientific.

We make our plea, Mr. Chairman, not in our own interest, or even in the interests of our hospitals, but we make it in the name of charity, for the benefit of the poor people of the country.

Mr. HILL. Doesn't St. Luke's now have this free?

Dr. CLOVER. No, sir.

Mr. HILL. Why shouldn't it?

Dr. CLOVER. I think possibly by a subterfuge we could get our implements in free of duty. We receive, for instance, a certain number of students from Columbia University for educational purposes, and I might make the plea that we were attached to Columbia University. We have no corporate connection with Columbia University. I do not believe in subterfuges, and I do not believe most of the hospitals believe in subterfuges. I know of no hospitals except those that are identified with educational institutions, such possibly as Johns Hopkins, at Baltimore, that do get their implements and instruments in free of duty.

Mr. JAMES. You want this right for hospitals that make no charge for services?

Dr. CLOVER. We make this plea for hospitals that render free care and treatment to the public. Hospitals do—these volunteer hospitals do—make some charge to people who can afford to pay. In New York

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the average free work done by the hospitals is 65 to 75 per cent. That does not include the great work done in the dispensary, which we call ambulatory patients. That work is very large, and is entirely free work, with the exception of an insignificant charge for medicine, if the patient can afford to pay even that charge; otherwise that work is entirely free.

We ask this privilege for surgical instruments, for scientific implements, for X-ray plates. Most of the X-ray plates used here are very excellent plates, but we are obliged to get a very highly sensitized plate from England, that can not yet be obtained in this country, for tissue work—work involving the stomach and the chest. We do not have so many of those plates, but they are extremely expensive, and we are obliged to use them to some degree.

Then, in medicines, medical preparations, there are constantly being discovered in the laboratories of Germany such preparations as Salvarsan, "606," Prof. Ehrlich's discovery. That medicine is administered in our dispensaries and in our hospitals, although it has cost these institutions from \$2.50 to \$3.50 for a single dose. The men and women of this country have been wonderfully benefited—not only the men and women, but the children, the innocent children. The child unborn has been saved from hereditary syphilis by this remedy.

It is not unlikely that within a year or two a specific for tuberculosis will be discovered, and it is of tremendous importance to the health and welfare of the poor citizens of this country that if these discoveries are made, we be able to administer them to such people as quickly as possible and as cheaply as possible.

Mr. HILL. You recognize the difficulties in the administration of the law, do you not? No one would insinuate for a moment that St. Luke's Hospital would do anything that was not right and proper, and the purpose has been to have such an administration, but the difficulty is to know where to draw the line, so that the Government will not be exploited for purposes of private profit.

Dr. CLOVER. I think the charter should be withdrawn from any institution that exploits its instruments or its medicinal preparations that have been admitted free of duty. I do not believe, sir, that any reputable institution would do that.

Mr. HILL. Disreputable ones might.

Dr. CLOVER. Well, they ought to be put out of existence.

Mr. JAMES. Some of the hospitals that do charitable work, and yet do work for charge or pay, would make considerable profit. If you provide, as you suggest, without limiting it or safeguarding it in some way, these hospitals that really make profit would be permitted to get these instruments free.

Dr. CLOVER. No, there are sanitariums and privately owned hospitals that are in the business for profit. The volunteer hospitals are not in it for profit, although they may have connected with them a department for private patients, or for pay patients. The proportion of patients treated in such departments is very small. Moreover, the hospitals in this country are not sufficiently numerous to meet the needs of the country. We are woefully behind Europe, we are woefully behind Great Britain, in our number of hospitals, and

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any surplus after paying the expenses of the pay departments, is turned right over to charitable work. I know of no institution that is not running with an annual deficit, and I know of no institution which ought not to be enlarged. Every cent of money saved, should our request be granted, will be used for the enlargement and betterment of the work among the poor. That is what we primarily exist for.

Mr. JAMES. What percentage of the importation of these instruments and medicines are used by hospitals that are what you might term charitable hospitals?

Dr. CLOVER. That question is very difficult to answer, sir. I haven't data covering that field.

Mr. HARRISON. You stated that about half of the institutions in the country were charitable institutions.

Dr. CLOVER. Yes; that is true.

Mr. HARRISON. They are probably, on the whole, a good deal larger than the others?

Dr. CLOVER. They will be probably 75 to 80 per cent of the institutions.

Mr. HARRISON. Are there any further questions, gentlemen? Before you leave the stand, Dr. Clover, I would like to ask you a question that occurred to me when you mentioned that you represented St. Luke's Hospital. It is on an entirely different subject from that about which you have testified. We had here last week a very lively controversy before the committee between witnesses for and against revising the duty on lemons, and one of the subjects that received a great deal of attention was the statement of one of the witnesses that lemons were very largely used in hospitals, and that the duty had increased the cost of those used medicinally, and another witness appeared and stated that a canvass had been made of the five leading hospitals in New York, in which he asserted it was discovered that these hospitals used only one-tenth of a lemon per patient a year. Now, what is your experience as to corroborating or discrediting that testimony?

Dr. CLOVER. Why, I would say, sir, that was either a misstatement or that the man compiling those figures included ambulatory or out patients, patients who come to the dispensaries and get their treatment. Lemons are a very necessary element in the treatment of certain diseases; in the treatment of fever cases chiefly. What is known as Lanhart's Diet is made up very largely of lemons. I simply can tell you of my own experience at St. Luke's. We use something like 35,000 lemons a year, and in order to economize I have to decline to honor the requests of physicians there occasionally. We ought to use 60,000, but lemons have been very high the last two or three years, and we have to economize. But in fever cases the use of lemons is increasing constantly, and I think will continue to increase.

BRIEF SUBMITTED BY DR. G. F. CLOVER.

As a committee appearing in behalf of the American Hospital Association, a body having a membership of some 1,100 individuals and representing over 600 of the leading hospitals of the country, we respectfully petition that paragraph 650 of the present tariff act be amended in such wise that it may include hospitals rendering medical

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and surgical aid free of charge among those institutions permitted to import duty free apparatus, utensils, instruments, and preparations, including Roentgen-ray plates, for medical and surgical purposes.

In the list of institutions now permitted to import their apparatus and preparations without duty are those established for educational and scientific purposes.

The hospitals, gentlemen, which we represent are educational; they are scientific; and they are also charitable institutions.

They are educational because they maintain schools for nursing, where women are trained to care for the sick throughout the land. Such schools when registered are considered as educational schools by the department of education of their respective States and are subject to the rules and regulations of such department.

They are educational because they receive to their wards and laboratories medical students for practical education in medicine, surgery, and pathology, and they are also educational because within their walls physicians and surgeons gain the knowledge and dexterity which makes them men of great professional skill. Without the hospitals neither medicine nor surgery could have attained the position they now occupy, nor could they in the future make the progress which, from the discoveries of the past, we have reason confidently and eagerly to expect.

They are scientific because in their wards clinical observations are constantly being made which lead frequently to the discovery of new truths, while in the pathological and bacteriological laboratories diseases are investigated, their causes learned, and their prevention and cure often found.

They are charitable because the trustees, officers, physicians, and surgeons thereof give their services without remuneration, and because the major portion of their work is for the poor and is rendered without charge. In the matter of tariff our Government has encouraged philosophy, education, science, literature, art, but the greatest of these, charity, has received no such recognition.

We ask for the abolition of import tax on articles used for the treatment of the sick which we get from abroad, for the reason that many of the necessary surgical instruments are not made in this country. Others, while made here, are not so good, and therefore our surgeons, realizing the extreme care needed where human life is at stake, decline to use them. There are, however, certain instruments made in the United States, such as those made of soft metals, which are invaluable and which doubtless we shall continue to use. Among the instruments of precision necessary in our laboratories a large number are not manufactured in the United States and so we are forced to import them. Others, such as lenses for microscopes, as manufactured in America, are not so perfect as those made abroad, and we are bound to have the best in making investigations that may mean life or death to our patients.

There can be found in almost any of our large cities in close proximity to each other an institution of learning and a hospital. The institution of learning may have connected with it a juvenile department in which children are taught botany. The child peers through the microscope at stem, leaf, and pollen. That microscope in the hands of the child was imported duty free. In the operating room of the adjacent hospital a surgeon is removing a foreign growth. He pauses in the operation, calls for the pathologist, hands him a section from the growth, and asks him to determine its nature. Is it malign or benign? If malign, the amputation must be deep and thorough—an entire limb perhaps. If benign, then the diseased portion only must be cut away. The instrument used by the pathologist in making his momentous decision was a microscope on which a duty of 45 per cent ad valorem was paid.

We ask for the abolition of duty on Roentgen or X-ray plates for the reason that, although those made here are very excellent and we use them in a large number of cases, yet there are many cases, such as those involving tissue changes of the stomach and chest, for which we must have a more highly sensitized plate than can be obtained here. As evidence thereof I submit an illustration of a stomach taken by one of these plates.

In medicines, too, we ask a freedom from duty.

There are being discovered in the laboratories of Europe remedies, the administration of which may be of the utmost value to the life of the people of our Nation. As an example of this, during the past few years, Prof. Ehrlich made that wonderful discovery of Salvarsen, or "606," a cure for certain forms of syphilis. It has been a wonderful boon to many of the men and women in this country, and even for young, innocent children, and the child unborn. This remedy is administered in our hospitals and dispensaries, even though it has cost them \$2.50 a dose, including a duty of 25 per cent. In Germany the cost of this remedy is about \$1 a dose. It may be that a cure for cancer or tuberculosis will be discovered within a year or two. At one time a

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heavy duty was exacted on quinine, but when, owing to the prevalence of malaria, it was adjudged to be absolutely necessary to the well being of the Nation, the duty was abolished. Such remedies as I have mentioned are certainly no less necessary to the health of our people than was quinine.

Gentlemen, what we ask, we ask not for ourselves, nor even for our hospitals, but in the name of charity for the people, since every saving will be used for the more adequate relief of the dependent poor.

BRIEF SUBMITTED BY THE AMERICAN HOSPITAL ASSOCIATION ASKING FOR THE AMENDMENT OF PARAGRAPH 650.

To the honorable members of the Committee on Ways and Means, House of Representatives:

We, the undersigned, a committee appointed by the American Hospital Association, founded to promote the economy and efficiency in hospital management, respectfully petition and recommend that paragraph 650 of the present tariff act, which now reads—

"Philosophical and scientific apparatus, utensils, instruments, and preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe,"

be changed so as to read—

"Philosophical and scientific apparatus, utensils, instruments, and preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use or by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale, and all medical and surgical instruments, appliances, apparatus (including Roentgen ray plates), utensils, and chemical and pharmaceutical preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by order of any hospital, asylum, or other institution rendering medical or surgical aid to the public or any portion thereof free of charge, in which instruction in medicine and nursing is given, and whose expenses are borne wholly or in part by public funds, private subscription, or endowments, such articles and preparations to remain the permanent property of such hospital, asylum, or other institution, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe."

AMERICAN HOSPITAL ASSOCIATION.

The American Hospital Association is composed of hospital trustees, managers, contributors, and officers of charitable institutions. The association aims to promote economy and efficiency in hospital management, to educate the people regarding hospital needs, to disseminate information regarding every phase of hospital work, to assist those who are carrying hospital burdens, and in every possible way to improve the care of the sick.

There are about 6,000 hospitals in the United States, including sanitariums and private hospitals. Of these, over 3,000 hospitals may be rated as public or semipublic—that is, that were founded and are maintained as charitable institutions supported by municipalities, counties, or by endowment and private subscription. These hospitals are both eleemosynary and educational in their work. Few of them have sufficient income to meet their expenses, and the vast majority are forced to meet an annual deficit by private or public subscription. Any present saving of expense is used and any future saving of expense will be used for increase or betterment of work, resulting in a larger and more thorough care of the sick, and especially of the sick poor. These hospitals are now caring for over 3,000,000 bed patients, representing 60,000,000 days of hospital treatment, and many times that number of ambulatory patients annually.

IMPORTATION OF SURGICAL INSTRUMENTS.

As representatives of hospitals thus maintained in whole or in part by public and private subscription or endowments, wherein surgical and medical attention is given free of charge, to the dependent poor, we wish particularly to emphasize that many

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of the important surgical instruments and invaluable medicinal preparations, which are the result of careful and painstaking medical study and research, must be imported from abroad. Approximately 40 per cent of the medicinal preparations are at present imported from England, Germany, and Austria, and over 80 per cent of the surgical and scientific appliances also are imported.

The European duty on surgical instruments is very low compared with ours. Italy exacts a duty of 30 lire per 100 kilograms, or about 0.026 cent per pound; Switzerland's tariff is 10.6.6 per hundredweight, or about 1½ cents per pound. Canada and Mexico admit such instruments duty free.

EDUCATIONAL IMPORTANCE OF HOSPITALS.

As we understand paragraph 650, only schools of learning, universities, colleges, and other educational and scientific institutions are permitted to import free of duty such instruments as are needed in their places of teaching. Many of the schools and colleges of this country have rich endowments, besides receiving large tuition fees from the pupils taught.

Yet, although hospitals are doing an educational work, the value of which to the country at large is hardly surpassed by institutions of pure learning; the same privileges with regard to release from import charges is not accorded them. It is not alone in the medical college, but in the hospital that practical understanding of the nature of diseases and their cure is acquired. Teaching in the college is theoretical. In the hospital it is practical. The best medical colleges are beginning to assume the position that they will not graduate medical students who have not had some hospital experience. But the hospitals, despite their wide educational scope, are often beset with financial difficulties, since they have fewer bequests, no income from tuition fees for teaching internes and nurses. Practically all the public or semipublic hospitals give instruction to internes and nurses and in most cases pay out a small stipend to these students for the services they may render, with room, board, and laundry work while they are in training. This is a constant drain on the limited resources of an institution dependent to a large extent upon public charity for a successful financial management. Medicines, often costly, are given charity patients both in the hospital proper and the dispensary or out-patient department. While schools are differentiated in paragraph 650, many hospitals are connected with these same schools, and while no corporate connection is apparent, they receive students into their wards for special training, as part of the school course, for practical experience in medicine and surgery can not be obtained from textbooks.

LABORATORY WORK.

The best hospitals to-day have extensive pathological, bacteriological, chemical, and Röntgenological laboratories attached, where work of a highly specialized character is done, both in educational, research, and diagnostic channels. In these laboratories apparatus of expensive character are used that are not made in the United States.

DUTY SHOULD BE FREE.

As to taxation for revenue, the loss to the Government in granting our petition to admit these articles free of duty would be small, while the gain to the hospitals, and the consequent increase of hospital facilities to the poor will be great. Surgical instruments pay a duty according to material, which average about 40 per cent ad valorem. Moreover, the Government can not wish to derive its revenue from institutions if the payment of such revenue interferes with the increase of the care of the dependent sick poor.

Respectfully submitted.

AMERICAN HOSPITAL ASSOCIATION.

Committee to memorialize Congress to place hospital instruments, etc., on the free list: Rev. G. F. Clover, chairman; Rev. A. S. Kavanaugh, D. D.; Dr. J. N. E. Brown; Dr. W. L. Babcock; Dr. W. H. Smith.

Mr. FORDNEY. At one point during these hearings it was contended, when the lemon schedule was up, that Sicily and Italy controlled the Atlantic coast points on lemons, and you say they have been very high. That corroborates that contention, and I thank you for that statement.

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

Mr. HARRISON. You said that St. Luke's Hospital should have used last year 60,000 lemons.

Dr. CLOVER. We used last year about 35,000, and if I had honored all of the requisitions that came in we would have used 60,000.

Mr. HARRISON. How many patients do you have a year? I mean out-patients.

Dr. CLOVER. We average about 217 out-patients per day. We averaged last year 298 in-patients per day. Lemons are not used in surgical operations. It is simply in the medical or fever cases that we use lemons, but they can be used to great advantage after operations; that is, two or three days after an operation.

Mr. JAMES. What language would you suggest should be used to amend paragraph 650 in order to comply with the suggestions you have made to the committee?

Dr. CLOVER. I have submitted a brief, filed a brief, which includes that language.

Mr. JAMES. I did not know that you had filed a brief, and I merely wanted to get that language. It has been suggested here that you said your hospital has an average of 298 patients.

Dr. CLOVER. Two hundred and ninety-eight, I think, was the daily average of in-patients.

Mr. JAMES. That is the number you had in the hospital at one time?

Dr. CLOVER. That is the daily average, sir.

Mr. JAMES. Now, how many per year would you have there?

Dr. CLOVER. Three hundred and sixty-five times that number.

Mr. JAMES. I know, but some of them stay there more than a day. How many different individuals do you have in this hospital?

Dr. CLOVER. Do you mean how many individuals we have in the hospital, including nurses and officers?

Mr. JAMES. No. How many different men, women, and children are in this hospital during the year? Not how many days do they stay there, but how many different persons you have in the hospital during the year?

Dr. CLOVER. About 5,000 in patients.

Mr. JAMES. That would make an average of about seven lemons, then, to a patient, instead of one-tenth of a lemon.

Rev. GEORGE F. CLOVER,

Superintendent St. Luke's Hospital, New York City.

JANUARY 25, 1913.

MY DEAR MR. CLOVER: I can not too heartily support the movement to bring about a reduction of duties on the price of surgical instruments in general, and especially the ones intended for hospital use. With very few exceptions the instruments that we desire to import can not be made at all in this country, being often original models. I am speaking now more particularly of the high-class surgical instruments which we obtain from France, Switzerland, one or two firms in Austria, and also in England. The great bulk of the German instruments are not any better made, in some cases worse, than those manufactured here at home. The better grade instruments I have just referred to are very costly even in Europe, and if we add to that the preposterous duties it makes their importation practically prohibitive. Moreover, the trust, which now dominates the situation in this country, relying on the strength of this situation, has by no means made the efforts to improve the quality of their work, which I am sure they would make if they were made to feel the effects of proper competition. It is more particularly with the rarer instruments which are

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used for research work that we are at a great disadvantage, and I think this is one of the many forms of handicap that American science had had to contend with.

Believe me,

Yours, very truly,

CHARLES L. GIBSON, M. D.,
Associate Professor of Surgery, Cornell University Medical College,
New York City.

COLUMBIA UNIVERSITY,
New York, January 24, 1913.

Rev. GEORGE F. CLOVER,
Superintendent St. Luke's Hospital, New York.

MY DEAR MR. CLOVER: In answer to your inquiry as to the disadvantages from which the laboratory at St. Luke's Hospital suffers in not being able to import scientific instruments, apparatus, etc., without the payment of duty, I would say that we have to pay duty on all the microscopes, now numbering about 12, which we use in the laboratory. The reasons for purchasing foreign microscopes are two: (1) That certain qualities of lenses are not made at all in this country; and (2) that the microscope stands made abroad are better in many particulars than any made in the United States. They wear for a longer period and the delicate adjustments are more accurate and work more easily. For photomicrography foreign lenses must be used almost entirely. You will find evidence of this in an article in the Third Scientific Report of St. Luke's Hospital, on selecting lenses for photomicrography. It is there shown that out of the 16 lenses which form the equipment of the St. Luke's photomicrographic laboratory, only one is of American make. The vacuum pumps and high-pressure autoclaves which we use are also imported, as such apparatus is not made here. On all of these we have to pay a heavy duty. The glassware used in the laboratory is largely made by the Jena Glassworks in Germany, and on this we have to pay duty. We have to import and pay duty on large amounts of special chemicals required in scientific investigation and teaching, because these materials are not made in the United States, and we also import almost all of the bottles for holding the chemicals, paying a higher price for them than we would for bottles made in this country because of the better quality.

St. Luke's also has to pay duty on the registering apparatus used in the study of cases of heart disease in the wards, because such apparatus is not made satisfactorily in this country.

The advantages of duty-free importation are seen at the College of Physicians and Surgeons where there are over 200 microscopes, all of which are of foreign make, although the makers of such instruments in this country will sell microscopes at lower prices in order to meet the competition. In spite of this, however, those in charge of the laboratories have always preferred to import the instruments because the foreign makes are better. Practically all of the scientific apparatus in that institution is imported.

I inclose a letter from a dealer which illustrates the extra expense to which we are put in getting apparatus which can not be bought in this country.

Very sincerely, yours,

F. C. Wood.

THE KNY-SCHEERER Co.,
DEPARTMENT OF LABORATORY SUPPLIES,
New York, January 11, 1913.

Mr. F. C. Wood,
St. Luke's Hospital, New York.

DEAR SIR: In reply to your letter of January 8, we note that only one Beckman apparatus was delivered to you, although our works abroad invoice us two. You are at liberty to deduct the shortage from your bill, advising us whether we shall furnish an additional apparatus with next opportunity.

As regards the price on the autoclav No. 387, wish to say that the same is correct.

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The catalogue price is 378 marks; at the rate of 24 cents per mark, amounts to.	\$90. 72
Plus 7½ per cent (due to increase in raw material and wages abroad).....	6. 80
Duty of 45 per cent.....	43. 88
Insurance, overland and ocean freights, case, packing, and other expenses during transportation.....	11. 60
Total.....	153. 00

We hope that, after this explanation, you will accept our figure as reasonable, and remain,

Respectfully,

THE KNY-SCHEERER Co.,
Department of Laboratory Supplies.

TESTIMONY OF DR. ALLERTON S. CUSHMAN.

The witness was duly sworn by Mr. Rainey.

DR. CUSHMAN. Mr. Chairman, I wish to point out a mistake in the calendar; I am down as representing the Institute of Indian Research; it should be Industrial Research; it is also stated that I am speaking for oils and greases for leather, in which I am not especially interested. I am speaking with reference to paragraph 650 of the free list, which covers the importation of instruments, philosophical and scientific apparatus, utensils, and preparations not for sale. I have submitted a brief covering my contentions and opinions, but wish to take advantage of the few moments allotted to me to elaborate my arguments with reference to the subject. I present perhaps a broader view than has been contended for by preceding witnesses, for I claim that there is no authority for considering the item purely from the viewpoint of charity. The wisdom of placing any sort of tax upon scientific, medical, or industrial research work is open to serious question. The German Government has always adopted a generous policy toward research, with the result that German science has responded by very largely increasing the national wealth. Throughout the hearings before this committee evidence of this fact has been presented, and I have especially discussed it in my accompanying brief with respect to the subject of aniline dyes.

I submit that the wording of paragraph 650 has not been selected in such a manner as to indicate that the intention of the Congress, when writing paragraph 650, was exclusively a charitable intention. The fact that the right of free importation of scientific apparatus has been refused to municipal corporations which maintain laboratories for the investigation of public milk and food supplies would not seem to be a just interpretation of the paragraph as written. If the public can be protected from the ravages of typhoid fever and other contagious and infectious diseases by proper laboratory investigations, such work would appear to be worthy of the fullest support under the terms of this paragraph. I would further point out that a hospital, whether it is run as a purely charitable institution or not, is engaged in the amelioration of human suffering, is working for the general benefit, and should enjoy the benefits extended under paragraph 650 in all cases where apparatus is imported in good faith and not for sale. College laboratories are extended the benefits of free importation, while other institutions engaged in research work are denied this advantage. I have referred in my brief to the well-known fact that at almost every college in the United States there

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are professors and assistants working in laboratories who do outside work for clients, investigate various subjects of research, make reports, and are paid fees. Such professors, under the present system, benefit by having at hand duty-free equipment which costs their institutions perhaps one-half of what had to be paid by others with whom they may be in competition.

I wish to state my belief that laboratories engaged in industrial research are doing work which operates to the good of the country at large and that the benefits accruing to the Government in income from the tax upon scientific apparatus is a very small matter in the consideration of any tariff act which is to be considered from the standpoint of revenue only. The total value of material imported into this country under paragraph 650 for the year 1912 was \$570,000.

Some gentlemen might be in doubt as to what public benefit could accrue, which was due principally to industrial and chemical research work. I may refer to a striking example. You have heard much testimony before your committee in regard to the importation of potash into the United States, due to the fact that heretofore potash has been a natural German monopoly. I have with me here a sample of rock that occurs in enormous quantities in the United States. In Mr. Hill's State alone there are enormous quantities of it, and it is pretty generally distributed throughout the United States. The specimen which I hold in my hand contains about 14 per cent of potash, and it is not unusual to find it running quarry-wise 10 per cent and over. This means that in a ton of 2,000 pounds, which represents about a cubic yard of the rock, there are 200 pounds of potash. This indicates that there are enormous reserves of potash locked up in the rocks in this country which only await, say, the development of a suitable process to make it available for agricultural and for other purposes. We are said to be a progressive and enterprising people, but I submit that we have up to the present time overlooked many of our opportunities, owing to the lack of public support of industrial and chemical research. If we are obliged to import material out of which foodstuffs are manufactured in the ground, we are certainly not agriculturally independent of Europe, no matter how large our crops appear in the statistical aggregates. In case of wars or embargoes in Europe, many of our valuable crops would be in jeopardy, owing to the impossibility of obtaining the necessary potash supplies. Industrial research has at least done away with this danger, for processes have been worked out at great expense which would become available if scarcity of German potashes should come about from any cause whatsoever. I wish to point out that the apparatus necessary to this and similar investigations has and is costing American investigators twice as much as their foreign competitors. There does not seem to be any reason for placing a tax on the instruments which scientific men use in laboratories in working out problems of this kind, and which are not imported for sale. I merely wish to plead for the careful consideration of this subject by your committee.

Mr. PETERS. I notice that the importations under paragraph 650 increased steadily until 1911. In 1911 the importations were \$590,000, whereas in 1912 they were \$567,000. Has there been any

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different attitude of the Treasury Department or have there been any decisions which would tend to alter the class of goods that formerly came in free?

Dr. CUSHMAN. I do not think so.

Mr. PETERS. Do you know of anything that would seem to account for the falling off of these importations?

Dr. CUSHMAN. It is possible that the rulings of the Treasury Department that hospitals and municipal corporations are not educational institutions within the meaning of the act have denied the right of the growth of benefits under this paragraph. The rulings of the Treasury Department have been based upon the construction of the word "solely" contained in the paragraph. I do not wish to be understood as attempting to criticize the rulings of the United States Treasury Department, whose manifest duty it is to construe the wording of the act as closely as possible. It is nevertheless difficult to understand why a hospital which is engaged in part in teaching doctors and nurses to care for the sick is not in the fullest sense of the word an educational institution. Whether it is solely so or not, the form of educational work done would appear to be quite as valuable as that carried on, for instance, by a high school which is engaged in giving young people the rudiments of their education.

I think, Mr. Peters, it is quite possible that the reason there is a discrepancy of a few thousand dollars between 1911 and 1912 is because of fluctuations dependent upon appropriations and gifts which may or may not be made available for the equipment and support of college and university laboratories from year to year.

The brief submitted by Dr. Cushman follows.

THE INSTITUTE OF INDUSTRIAL RESEARCH,
Washington, D. C., January 11, 1913.

BRIEF SUBMITTED BY ALLERTON S. CUSHMAN, PRESIDENT AND DIRECTOR OF THE
INSTITUTE OF INDUSTRIAL RESEARCH, WASHINGTON, D. C.

The object of this brief is to present to your committee certain arguments in relation to the extension of the free-list benefits under paragraph No. 650, covering philosophical and scientific apparatus, utensils, instruments, and preparations to be used in industrial, scientific, medical, and educational research and not for sale. The wisdom of placing any sort of tax upon scientific, medical, or industrial research work is open to serious question. The German Nation and Government have always adopted a generous policy toward research, with the result that German science has responded by very largely increasing the national wealth. Throughout the hearings before this committee there has been presented abundant evidence of this fact. It has been shown, for instance, that 80 per cent of all the aniline dyes used in this country come from Germany. The first aniline dye was the discovery of an English scientist, and all of them are the product of scientific research and have been worked out by highly trained chemists in the laboratory. One of the great German aniline factories is said to employ a hundred or more research chemists. Every person in this room and every man, woman, and child in the United States contributes in part to English and German scientific research by wearing clothes colored with the products and discoveries of laboratory investigation. To a constantly increasing degree modern industry in all lines is calling upon the trained laboratory worker for aid in keeping up with the procession. The utilization of by-products and saving of industrial wastes constitutes the first chapter of the modern movement toward the conservation of natural resources, and this movement makes a growing demand upon the laboratory and upon the sort of work that is denominated under the tariff act as educational and scientific.

The total value of all material imported free of duty under paragraph 650 for the fiscal year 1912 was \$570,719. Of this, \$566,280 came from Europe and \$467,931, or about 82 per cent, from Germany alone. It is commonly accepted that the best

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scientific instruments and apparatus come from Germany, and some forms are exclusively manufactured there.

It is respectfully submitted that the construction and wording of the act, paragraph 650, does not make the meaning clear in respect to the intentions of the Congress in so writing it. The paragraph provides that the material in question shall be "specially imported in good faith for the use and by the order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts or for the use of or by order of any college, academy, school or seminary of learning in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe."

The principal obscurity in this language appears to lie in the interpretation of the word solely.

For instance, a municipal corporation has been held ~~not~~ to be a society or institution within the meaning of said paragraph (T. D. 16230), and a hospital having a school of instruction attached has also been denied the right of free entry thereunder, upon the ground that such institution is not established solely for educational purposes or for any of the other purposes therein mentioned (T. D. 14637, T. D. 16355, T. D. 18708, and T. D. 18767).

A municipal corporation maintaining a board of health and laboratories for the control of the milk, water, and food supply or for the grading and examination of paving materials, might be considered, in so far as laboratory investigation was concerned, as being solely occupied with scientific and educational work in the interest of the whole community, for a preventable epidemic disease in any one municipal corporation constitutes a menace to the whole country at large by possible spread of contagion from one State to another. Again, as shown, a hospital having a school of instruction attached has been denied the right of free entry, upon the ground that such an institution is not established solely for educational purposes. As all hospitals are, or ought to be, engaged in applying the science and art of medicine and surgery to the alleviation of human suffering as well as in the education of physicians and nurses, it would appear to involve a nice distinction to rule that their work is not solely scientific and educational within the meaning of the terms of the act.

From the wording of the act, paragraph 650, it would appear that the intention of the Congress had been to adopt a generous policy toward philosophical, scientific, and educational investigation. The writer is the president and director of the Institute of Industrial Research, an institution duly incorporated under the laws of the District of Columbia for the purposes of carrying on investigation and research applied to the improvement and development of industrial processes and products. The work of the institute is carried on almost exclusively in physical, chemical, and mechanical laboratories, and involves an order of work which is solely philosophical and scientific. The objects of the Institute of Industrial Research are embodied in the articles of incorporation and are appended to this brief as Exhibit A. The laboratories of the institute have been housed in a handsome building at the corner of Nineteenth and B Streets NW., in Washington, facing on Potomac Park, and have found a wide sphere of usefulness in investigating new uses for by-products and waste materials, as well as problems looking toward the institution of economies and improvements in the manufacture of many articles and products of general use. The institute also trains and instructs graduates of scientific and technical schools and other qualified persons in industrial research, and aids them in obtaining work for which they are particularly fitted. The Institute of Industrial Research might be considered as operating exclusively and solely in philosophical, scientific, and educational work. Under a ruling of the Treasury Department, however, the institute has been denied the right of free entry of scientific instruments and apparatus, on the ground that its charter enables it to make suitable charges in the form of fees and retainers for its work, and in case its business is profitably carried out to make distribution of earnings to its stockholders, in the same manner as any other incorporated business, although the instruments and apparatus for the carrying out of these investigations are necessary to its work and are used in good faith in the work and not under any circumstance for sale.

The right and propriety of the Treasury Department in so ruling is not here questioned in this brief, and yet we desire to point out that the institute stands in no different relation to the act as it reads than any college or school in the United States which charges fees for carrying out the special purposes for which such institutions may be incorporated. Furthermore, it is a well-known fact that many college professors, assistants, and instructors who enjoy the benefits of free entry of scientific instruments and apparatus carry on scientific and philosophical investigations for clients, for which

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they are paid suitable fees, and that in this respect such college professors and instructors have the opportunity to avail themselves of imported instruments and apparatus at something less than half the cost which has to be met by the Institute of Industrial Research and similar foundations in the United States.

It is a well-known fact that many scientific and philosophical instruments and apparatus are exclusively manufactured in Europe and imported into this country for the use of scientists, and that the broadening of the act in respect to paragraph 650 is not calculated either to materially reduce the income of the Government under the tariff act or to do great damage to American manufacturers. The philosophical and scientific apparatus which represents the equipment of our own laboratories is supplied to us by American dealers, but is almost exclusively manufactured in and imported for our uses from Germany. What is true of our laboratory is true of almost every other scientific research laboratory in this country at the present time. If the extension of the benefits of duty-free scientific apparatus were granted, as we request, it is apparent that little or no damage could be done to American manufacturers, while dealers who supply this class of apparatus would probably be called upon for added supplies, as a given amount of money could be made to purchase about twice as much equipment to carry on the work of any given institution or laboratory. It is further set forth that the scientific and philosophical work done in the independent laboratories in this country is doing great good in many directions and that if the law can be so written and interpreted as to give the benefits of free entry of scientific apparatus, it will be to the great advantage of almost all branches of medical, scientific, and industrial development and operate to the general good.

In view of the invitation of your committee to those who prepare briefs to submit suggestions as to changes in the phraseology of the present tariff act and suggestions as to the betterment of the administrative features of the present law, we respectfully beg to make the following suggestion:

That paragraph 650 be changed to read:

"Philosophical and scientific apparatus, utensils, instruments, and preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by the order of any society or institution incorporated or established mainly for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by the order of any college, academy, school, or seminary of learning, or for any municipal corporation maintaining investigation laboratories, hospitals maintaining schools of instruction, or institutions engaged in industrial or agricultural research in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe."

It is further suggested that as a betterment of the administrative features of the present law it should be understood that the benefits of duty-free importation of scientific and philosophical instruments and apparatus are extended only to those institutions and foundations that can convince the Secretary of the Treasury that they are engaged in work the results of which apply mainly to the general good, and that the source of income under which such institutions are supported shall not operate as a prejudice against their enjoying the benefits of free importation.

This object could be brought about by the addition of the words:

"*Provided*, That if the Secretary of the Treasury is convinced that any incorporated society or institution within the meaning of this act is engaged in work the results of which apply mainly to the general good, the means of support of such institution shall not operate as a restriction."

Respectfully submitted.

ALLERTON S. CUSHMAN, *Director*.

EXHIBIT A.

The articles of incorporation setting forth the purpose and scope of the Institute of Industrial Research read as follows:

"1. To investigate and improve processes of manufacture and to educate and instruct manufacturers in the reduction of costs and the utilization of by-products and waste.

"2. To investigate and improve general metallurgical, mining, and agricultural operations, so as to improve their efficiency and to disseminate information in regard to such improvements.

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"3. To study the problems of paint technology, electrical engineering, and electro-chemistry, and to institute economies and improvements in the manufacture of fertilizers and general chemicals.

"4. To train and instruct graduates of scientific and technical schools and other qualified persons in industrial research, and to aid them in obtaining work for which they are particularly fitted; and in general to do and perform every lawful act and thing necessary or expedient to be done or performed for the efficient and profitable conducting of said business, as authorized by the laws of Congress, and to have and exercise all powers conferred by the laws of the District of Columbia upon said corporation."

TESTIMONY OF HENRY C. LOVIS, NEW YORK, N. Y.

The witness was duly sworn by Mr. Harrison.

Mr. LOVIS. Mr. Chairman and gentlemen of the committee, my appearance is with reference to paragraph 650, and the addition thereto to permit hospitals generally to import goods for their use free of duty. We are manufacturers of medicinal and surgical plasters, absorbent cotton and surgical dressings, bandages and articles in that line, and a large proportion of our trade is with hospitals.

In the cost of our goods labor forms 25 per cent of the cost of the finished goods at the factory. To permit foreign goods to enter, we would have to compete with labor cost of 50 per cent under American cost, and as to the merchandise elements in these costs, foreign merchandise is not less than $12\frac{1}{2}$ per cent cheaper than we have it here in America. That would together make a rate of 25 per cent, which is the present rate of duty assessed on our class of preparations. And from those figures it is perfectly evident that it is necessary to have 25 per cent duty to begin to equalize the difference in cost between home and foreign production.

We therefore feel that under a free rate of duty we should promptly lose our hospital business, and we don't see why we should when the largest proportion of those institutions are private institutions, charging fees. It is only a minor proportion that can be called charitable, but all of those are not entirely so. They have some proportion of patients which pay. And municipal hospitals, which are generally regarded as free institutions, if I am not misinformed, many of them have a definite rate per week, and as a matter of fact a patient, unless he makes a statement that he is a pauper, does not get treatment absolutely free of charge. We therefore feel that the hospitals generally should not have the privilege of that free rate of duty, to the great detriment of home industry.

Mr. HARRISON. Of course it is true, is it not, that even in those hospitals which make a charge for such patients as are able to pay, none of it is diverted to anybody's profit; it is only used to run the institution; there are no profits made out of these charges, are there?

Mr. LOVIS. In some I believe there are.

Mr. HARRISON. Well, in private hospitals, of course they are immensely profitable, but these are not comprised within the class of institutions in which these witnesses have desired us to give free entry for surgical instruments.

Mr. LOVIS. We have no objection whatever to the entry free of duty of the articles for hospital use, provided those hospitals are de-

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voted solely to charitable work and without pay from patients, on articles that are not produced in this country.

Mr. HARRISON. How many hospital institutions are devoted solely to charity, and no pay patients?

Mr. LOVIS. There is a minor proportion; I am not prepared on the exact number.

That is all I think of; thank you.

BRIEF PRESENTED BY MESSRS. SEABURY & JOHNSON, OF EAST ORANGE, N. J.

Protest against any amendment of paragraph 650 or any other provision by which hospitals and similar institutions are to be permitted to import, directly or indirectly, medical and surgical apparatus, appliances, utensils, instruments, preparations, and pharmaceutical products, free of duty.

COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: We are manufacturers of medicinal and surgical apparatus and preparations, supplying our wares to hospitals, who consume a very large percentage of the output of our factory; to surgeons, physicians, and afflicted people; to the medical and surgical departments of the United States Army, Navy, and Marine-Hospital services, etc.

This trade with the hospitals (municipal, public, or private) is a valuable one, and its loss through a successful competition by foreign goods through their being admitted duty free would very seriously affect this industry, which has taken many years of exploitation to build up.

We prepare for and sell to these interests millions of yards of aseptic and antiseptic gauze, vast quantities of absorbent cotton and medicated cottons, splints, and other dressings and appliances used in hospitals and medical and surgical practice.

We therefore beg leave respectfully to protest against medical and surgical apparatus, appliances, utensils, instruments, and preparations and pharmaceutical products, imported by or for hospitals and other institutions being admitted to the United States free of duty.

We also respectfully protest against any reduction in the duty existing in the present tariff law covering those items, our protests being based as follows:

First. The rate at which these goods are sold by us to municipal, public, or private hospitals and similar institutions returns only an exceedingly small profit, as competition amongst the various American manufacturers is very keen and prices to hospitals are made with the knowledge that considerable of their work is done on a philanthropic basis, which therefore demands the closest possible prices.

Second. That such goods admitted free of duty to the United States would probably most largely come from England, Germany, and Austria, where labor is but 40 per cent to 50 per cent of American wages and the cost of materials much less than here. Were these foreign goods to enter duty free the trade of the various American manufacturers with these hospitals would be substantially wiped out, as the American manufacturers could not compete against the lower foreign cost of production and a reduction in wage scale in American factories to the foreign level would be impractical.

Third. The greater number of hospitals throughout the country are private or semi-private institutions, charging fees for treatment given, though some of these have departments wherein free treatment is accorded. A minor number only give treatment without pay, but this latter class usually are municipal or State institutions, supported by city or State from funds derived from the American taxpayer. The foreigner contributes nothing thereto.

Fourth. It would be impossible to separate hospital supplies used for patients who pay for treatment from hospital supplies used in the same institutions for charity patients. Any such attempt would be open and prone to gross abuse.

Fifth. Many physicians and surgeons obtain their medical and surgical supplies for use in their private practice from hospitals with which they are connected, thus securing supplies at the low prices made to hospitals, and should foreign goods for hospital use secure entry free of duty, further serious effects to the American industry would result through the practice here mentioned.

Sixth. Many millions of dollars are invested in the United States in various American factories devoted to the preparation of medical and surgical apparatus, utensils, in-

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struments, and preparations, including our own, and these have been built up by these large investments supplemented by the devotion to scientific study and the use of expert knowledge—mechanical and chemical skill—by specializing in these lines, so to speak, to the end that we and they should attain highest development in the art of preparing these medical and surgical supplies. The importance of these home industries is appreciated by the professional and lay people throughout the land. Their importance to the municipal, State, and Federal Governments in times of peace as well as in times of war should not be underestimated.

Seventh. Apart from the absolute necessity that the duty on this class of goods shall be maintained in order that such American industries shall continue to live, we further protest against favoritism to foreign interests of free entry, which foreign interests neither pay our taxes in times of peace nor fight our battles in times of war.

Eighth. Any amendment sought which introduces the terms "apparatus, appliances, and preparations," can be interpreted to include all the medical and surgical manufactures heretofore mentioned.

We would, however, offer no objections to such amendment of paragraph 650 of the present tariff law as would permit the entry free of duty of philosophical and scientific apparatus, utensils, instruments, and preparations not made in this country for hospitals devoted to giving treatment free to those patients unable to pay therefor.

Respectfully submitted.

SEABURY & JOHNSON,
HENRY C. LOVIS, *President*.

NEW YORK, JANUARY 29, 1913.

FRANCIS D. DONOGHUE, M. D., BOSTON, MASS., SUBMITS BRIEF.

BOSTON, MASS., *February 1, 1913.*

HON. OSCAR UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: Owing to the lack of Government and State endowment, such limited medical laboratory investigations as are being made are being made by groups of men picked out by special interests or those who have acquired special opportunities. So that until such time as more liberal appropriations are made and expended under Government supervision the physician of the United States, both inside and outside of institutions, should be encouraged to utilize the work and discoveries of the great European laboratories without penalty.

There can be no reason advanced for favoring institutions which does not apply with more force toward the treatment of the medical profession as a whole. The ordinary practitioners of medicine are already handicapped in cities by hospital competition, and the number who can afford to get and use the most up-to-date equipment are becoming fewer in proportion.

The standard of the medical profession is, and will continue to be, the standard of the average practitioner.

The discoveries of great laboratories are only of importance if they can be applied by the average practitioner to the conditions of the average men. The discovery of some great truth is entitled to fame and distinction, but unless it is available for the average man it does not fulfill its highest good.

The necessity of aiding the physician practicing away from medical centers is obvious.

The number of medical men who, from the desire to advance their profession, make study trips to the medical centers of Europe is a considerable number. On their travels they see new means for the relief or cure of suffering. They should have at the very least an opportunity to bring in free of duty for their own use such instruments or materials that they have been willing to purchase for use in their work and not for sale.

Conclusion: In the interest of the working medical practitioner paragraph 650 should be amended to permit not only hospitals but physicians in general practice to import surgical and scientific appliances and medicines for their own use and not for sale free of duty.

Respectfully submitted.

FRANCIS D. DONOGHUE, M. D.

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

BRIEF OF H. CARSTENS MANUFACTURING CO., CHICAGO., ILL.

CHICAGO, January 30, 1913.

HON. OSCAR UNDERWOOD,

Ways and Means Committee, Washington, D. C.

HONORABLE SIR: Referring to the free clause No. 650 we, as manufacturers of surgical instruments, most respectfully and seriously beg to enter our protest against including the hospitals in this clause, for the following reasons:

First. If the tariff on manufactured metal goods, including surgical instruments, is to be lowered, we think it ought to be the same for everybody interested in the manufacture, sale, or buying of surgical instruments.

Second. To give hospitals the preference by including them in the free clause would inevitably result in the hospitals becoming dealers by importing direct and selling surgical instruments to the doctors on their staff, without corresponding benefit to the patients, who are not likely to be charged lower fees on account of this preference.

Third. With few exceptions, hospitals are conducted for profit, bringing good returns on the investment and, compared with their yearly volume of business, the amount of charity work done is insignificant. Hospitals devoted to charity work exclusively rarely pay much, if anything, for their instruments or equipment, but obtain such mostly through donations from manufacturers and dealers.

Fourth. While the lowering of the tariff from 45 per cent to the proposed 25 per cent would be a very hard blow, the including of the hospitals in clause No. 650 would mean total ruin to every manufacturer and dealer in surgical instruments and thereby destroy a very useful and, we feel free to say, very necessary industry. This would drive out of employment several thousand people now engaged in this work, without corresponding benefit to be derived, a fact which we can not conceive to be the object of any administration.

Very respectfully,

H. CARSTENS MANUFACTURING CO.,
Per H. CARSTENS, *President.*

BRIEF OF THE SCIENTIFIC MATERIALS CO., PITTSBURGH, PA.

PITTSBURGH, PA., January 30, 1913.

HON. OSCAR UNDERWOOD,

*Chairman Ways and Means Committee,**House of Representatives, Washington, D. C.*

DEAR SIR: It has come to our attention that your committee is to be asked to put all scientific instruments and materials for use in research laboratories on the free list.

We make such supplies our sole business, and are unable to see any good reason for bringing in any such materials free of duty. As the matter now stands, educational institutions have this privilege, and practically all other laboratories are conducted for profit in one way or another. The majority of our sales are made to the large corporations, whose laboratories are just as much a part of their manufacturing operations as any other part of their business. It would be impossible to satisfactorily carry out any provision which would attempt to make any distinction between laboratories conducted for research and those doing regular analytical work, because practically every laboratory does or could do something which might be called research, and thereby take advantage of the benefits.

We are under the impression that paragraph No. 650 of the tariff, now in force, will permit any institution incorporated solely for scientific purposes to import apparatus free of duty. This seems to amply guard against the tariff interfering with the advancement of science where not conducted for profit.

Very truly, yours,

SCIENTIFIC MATERIALS CO.,
CHESTER G. FISHER,
Vice President and General Manager.

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BRIEF OF THE AMERICAN STERILIZER CO., ERIE, PA.

ERIE, PA., *February 1, 1913.*

Hon. ARTHUR L. BATES, M. C.

DEAR MR. BATES: We note report in the morning paper of plea made by Dr. Clover, of St. Luke's Hospital, New York, in behalf of certain hospitals, before the House Committee on Ways and Means, for the free list to be amended to include free importation of apparatus, utensils, etc., for medical and surgical purposes.

In this connection, while we are entirely agreeable to a liberal reduction in duty on this class of apparatus—personally we would not object to having the present 45 per cent cut to 25 per cent—we want to register a most emphatic protest against duty free, and this for very vital reasons, one or two of which we will endeavor to give you briefly:

(1) These same hospitals and charitable institutions throughout the country are being supported, very largely, from surplus earnings of American manufacturers, some of whom would be practically wiped out of business if the proposition went through.

(2) The institutional purchases of this class of apparatus forms so small a part of their annual budget of expenses (and their records will prove this) as to make it a matter of little importance to the life of the institutions, but of vital importance to manufacturers in this line.

(3) As an illustration of what this would mean, we have in our employ a German to whom we pay \$3 per day. He has been with us approximately seven years. Prior to that he had only been in this country working a little less than six months. He was a mechanic (coppersmith) in the old country, a man of family, and he told us that in American money he never received in excess of \$1.25 per day; his family could never have more than the barest necessities, and was obliged to live in a rented cottage. During the seven years he has been with us, he has saved enough to buy and pay for a little home, is educating his children, and laying by a little for old age. This is only an illustration, and the difference of \$1.75 per day that we are paying him might be multiplied many, many times to cover similar cases, and I am confident if the good Dr. Clover understood the circumstances of this case alone, the American in him would plead for a continuation of American conditions. German ships can land our class of goods in New York City at as low rate as we can from Erie, and, as a practical man, you can readily see where the 100 per cent in advanced wages over German and other competitors would place us.

We do not ask for any undue protection, but we do beg of you to throw your influence in favor of a sufficient protection to cover the difference in cost between American and foreign labor.

In anticipation of your favorable reply, we beg to remain, with best wishes,

Very respectfully,

AMERICAN STERILIZER CO.,
By GEO. F. HALL, *President.*

STATEMENT SUBMITTED BY BECTON, DICKINSON & CO.,
RUTHERFORD, N. J.RUTHERFORD, N. J., *January 27, 1913.*

OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

HONORABLE SIR: As manufacturers of surgical instruments, we protest most vigorously against including hospitals in free clause No. 650.

With few exceptions, all reputable physicians are connected in one way or another with some hospital, and would feel entitled to claim any benefits that might come to them through said institutions.

Free instruments to hospitals would mean free instruments to from 60 to 75 per cent of the surgeons of the United States. This would mean death to the surgical-instrument industry in this country. The present rate of duty is already too low to permit of a healthy growth of the surgical-instrument business. This being true, how could it be expected to survive if the majority of instruments were admitted free of duty.

For the same reason we protest against a reduction of the present rate of duty on surgical instruments. Forty-five per cent is inadequate to offset the

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difference in wages in this country and that of Germany. The greatest item of cost in the finished surgical instrument is represented by labor.

Trusting this will have the serious consideration of the committee, we are,
Very truly, yours,

BECTON, DICKINSON & Co.,
M. W. BECTON, *Treasurer*.

**BRIEF SUBMITTED ON BEHALF OF THE GREATER NEW YORK
SURGICAL TRADE ASSOCIATION.**

In opposition to the application of hospitals for amending section 650 in such a manner that hospitals may import surgical instruments and hospital supplies free of duty.

HON. OSCAR W. UNDERWOOD, *Chairman*.

DEAR SIR: The Greater New York Surgical Trade Association is composed of manufacturers and dealers, both wholesale and retail, of surgical instruments and allied lines used in hospitals and by the medical profession in general. It has come to their notice that the hospitals have made preparations to have their representatives appear before your committee on January 31, 1913, to present their petition requesting you to amend section 650 of the present law, so as to include hospitals with "any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes," etc., so that the hospitals may import free of duty all apparatus, utensils, instruments, and preparations used by them.

As manufacturers and dealers, we do most emphatically protest against any such proposed amendment, and assign the following reasons for our opposition:

I. Such an amendment would seriously endanger and probably ruin the surgical-instrument industry in this country. Under a duty of 45 per cent, surgical instruments being included in section 199, "Articles or wares not specially provided for in this section, composed wholly or in part of iron, steel, etc.," which duty is scarcely sufficient to protect the American manufacturer against the keen competition of the Germans, we have built up in this country, with considerable difficulty, a surgical-instrument industry which is now fairly well established. While exact statistics are not available, it is safe to say that over \$2,000,000 is invested in this business in the metropolitan district of New York, and that at least 1,000 men are employed. Probably not less than 30 per cent of the quantity of instruments and apparatus handled by the manufacturers and dealers are consumed by hospitals. If hospitals are allowed to import free of duty, it will mean not only the loss of this 30 per cent of business, but it will mean a further loss of the business of all such physicians as are in a position to import their own personal supplies through the hospitals with which they may be respectively connected. It is a matter of common knowledge that a large percentage of the practicing physicians maintain a connection of some kind with hospitals. Those who have no direct connection are in many cases on terms of friendship with physicians who have. If the hospitals are allowed to import instruments and apparatus free of duty, what a great temptation is held out to the entire body of practicing physicians to obtain all their instruments and other imported supplies directly through the hospitals?

II. The amendment asked for by the hospitals is not at all vital to their existence and welfare. An examination of the report of any large hospital will disclose the fact that the amount of instruments and apparatus purchased during the course of a year bears a small ratio to the actual running expenses of the institution. The benefit, therefore, to the hospitals is, at the most, comparatively slight, whereas the injury done to the surgical-instrument industry in this country is most serious and endangers its very existence.

III. The plea that the amendment should be granted because hospitals are engaged in charitable work, and that therefore such action by Congress would be in aid of charity, is not fair nor made in good faith, and should not be seriously considered. As a matter of fact, hospitals are not, strictly speaking, charitable institutions, because they derive a very large revenue from the patients themselves and also from the municipalities or counties where they are located for the patients whom they are compelled to treat free of charge. Speaking more particularly of the hospitals in and around New York City, it is well known that patients, occupying private rooms, pay from \$5 to \$10 per day for room and board and ordinary nurse attendance, and that even the patients in the wards, many of them in one room, pay from \$7 to \$15 per week, according to their ability. If private patients, occupying rooms, pay

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

exactly the same rates as are charged in private hospitals, which are undoubtedly run for profit and not for charity, and if private hospitals and institutions can make a profit at the prices charged, then it is certain that our public hospitals, charging similar prices for their private rooms, must also make a profit on this part of the hospital's business.

It is sometimes urged that the hospitals furnish medical services without charge, which is true, but such services are rendered by the physicians without expense to the hospital, so that the hospital should not, so far as this argument is concerned, receive the credit for the benevolent services donated by the physicians.

Such a part of the hospital's activity as may be said to properly come under the head of charity is supported by the public through its city officials and by individual public-spirited citizens. We do not believe that the public, a portion of whose taxes is thus devoted to charitable work, or these public-spirited citizens, would wish to effect the comparatively slight saving which the hospitals would gain by the proposed amendment, if thereby the surgical-instrument industry is threatened with ruin. Furthermore, the whole spirit of our tariff legislation has been to foster and protect domestic industry, and it would surely be a paradox to destroy industry under the misguided intention of aiding charity.

IV. A further objection to the amendment is that it will be impracticable to administer the law so that the hospitals will receive the benefit intended and that, at the same time, no fraud or deception take place. The hospitals, we understand, may take the position that they do not wish to destroy the instrument business or to deprive the importers of the profits which they now make on importing goods sold to the hospitals. The fact still remains that the manufacturer is injured and that he is hopelessly out of the competition for the hospital's business. With the 45 per cent duty removed, he has absolutely no chance against the importing dealer to secure hospital orders. Moreover, it will be highly impractical for the hospital to import through a dealer. For instance, there are many dealers who do not import directly, but purchase the foreign goods from the houses which do a large importing business. The dealer, however, does a large business with the hospitals. In such cases the hospital would order through the dealer and the dealer in turn would place the order with the importing houses. The hospital frequently orders in very small quantities, two or three pieces at a time, whereas the large importer imports in lots of 50 or 100 dozens; therefore it is apparent that much confusion will arise, and the hospital's small import order will cause an amount of trouble to the customs officials and to the importing houses out of all proportion to the small amount of importing business done by the hospitals.

Again, the hospital is compelled or is accustomed to buy instruments and similar articles as they need them, and immediate delivery is a necessity. The importer, however, imports only in large lots and at more or less long intervals. The result would be that either the dealer would be compelled to carry a separate stock for the account of the several hospitals whom he supplies, which would be awkward so far as the administration of the tariff act is concerned, or eventually the large hospitals would alone do the importing, because the needs of the smaller ones are such that it would scarcely pay them, or anybody acting for them, to import the small quantity which they would order. If this results, then the whole object of the proposed amendment is, to a large extent, defeated, because only the very large institutions, which are usually so well endowed that they do not need this comparatively small assistance, would enjoy the benefit of the amendment.

There is still another outcome possible. All the hospitals might combine and form a buying or purchasing trust. The danger of this result coming about is real, because a number of the hospitals have already established a body in the nature of a buying agency, through which they are now purchasing a considerable part of their supplies. If such a buying trust were organized on a large scale so as to take in a greater number of the hospitals of the United States, or of any large part thereof, then the ruin of the instrument business in this country would be absolutely assured. In the first place, even if such a central purchasing agency or trust should purchase through an established house, it would nevertheless mean the loss of that business to all the other dealers who are not fortunate enough to receive the order or orders, and while a few houses might thus be saved, many of the rest would be obliged to discontinue their business. Again, if such a purchasing body had its headquarters in New York, then it is almost certain that the houses in such cities as Boston, Philadelphia, and Baltimore, which have heretofore been supplying the hospitals in their respective cities and localities, would suffer a tremendous loss of business and eventually be crushed out altogether.

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

Another danger growing out of the formation of such a purchasing trust would be the ease with which private physicians could include orders for private supplies with the hospital order. There is no practical means of placing any check on any hospital and preventing the inclusion of private orders from physicians when ordered through a central purchasing body, which imports the goods in bulk and keeps a stock on hand out of which to supply the hospitals quickly when they need any particular instrument or anything else.

V. A further objection to the proposed amendment is that it is a species of class legislation which is contrary to the spirit of the American Government. It is respectfully submitted that hospitals doing a part of their work for profit should be placed in the same class with the public in general so far as the payment of the duty on instruments and allied lines is concerned. If it were a fact that all hospitals were operated entirely as purely charitable institutions, then they might be placed in a class by themselves for the purposes of taxation; but where such a large part of their work is conducted in the same manner as a private enterprise for profit, then we can see no reason or justification for such classification.

VI. This association strongly urges your committee not to recommend any reduction in the present duty on surgical instruments. As stated above, this industry was built up slowly and with great difficulty. It is one which requires a particular kind of skilled labor of which there was little or no supply in this country when the first beginnings of the industry were made, and it has taken many years to develop the corps of skilled workmen now engaged therein. The present duty of 45 per cent is scarcely sufficient protection against the cheaper labor prevailing in Germany. It is a serious question as to whether the American manufacturer can stand any reduction whatever, however slight it may be. The consensus of opinion of those members of this association who are manufacturers is that they should have more protection than they enjoy at present. One of the members, doing a larger business than most of the others, began as a manufacturer but has gradually been compelled to abandon the manufacture of one article after another and import them for his trade, instead of making them himself. His experience has been that as soon as any specific instrument became standardized so that it could be marketed in large quantities, then the German manufacturer would so cheapen the cost of such particular instrument that the American maker could not possibly compete. The result of this process has been that the manufacturer above mentioned now makes only 30 per cent of the goods in which he deals and imports the other 70 per cent, whereas with more suitable protection, the ratio might be reversed. While this association, in deference to the well-known policy of the Democratic Party to reduce the tariff wherever possible, does not ask your committee to raise the duty on instruments, we do nevertheless earnestly beseech you at least not to lower the duty affecting our industry.

Dated New York, January 29, 1913.

Respectfully submitted.

GREATER NEW YORK SURGICAL TRADE ASSOCIATION,
By J. T. DOUGHERTY, *President*.

ERNEST W. STRATMANN,
Counsel, 2 Rector Street, New York.

BRIEF OF GEORGE P. PILLING & SON CO., PHILADELPHIA, PA.

PHILADELPHIA, PA., *February 17, 1913.*

HON. OSCAR W. UNDERWOOD,
House of Representatives, Washington, D. C.

DEAR SIR: Your letter of the 15th instant received. We think that you probably misunderstood our letter, because all of our arguments have been with the idea that hospitals should not be included in paragraph 650.

We very much prefer that paragraph 650 remain as printed in the old schedule, but if it must be changed, would suggest rewriting as per the inclosed.

The hospitals base their argument, first, charity; second, that certain instruments can not be purchased in this country.

If you write the new clause like the inclosed copy you will notice that both of these reasons are taken care of in this rewritten paragraph.

Yours, very truly,

G. P. PILLING & SON CO.,
CHAS. J. PILLING, *President*.

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

[Inclosure.]

Present paragraph 650 is already too broad, but if must be changed should read:

"Philosophical and scientific apparatus, utensils, instruments, and preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by the order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale. And also if not obtainable in United States of America, all medical and surgical instruments, appliances, apparatus (including Röntgen ray plates), utensils, and chemical and pharmaceutical preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by order of any hospital, or other institution, rendering all medical or surgical aid to the public free of all charge, and whose expenses are borne wholly by public funds, private subscription, or endowments. Such articles, preparations, and instruments to remain the permanent property of such hospital or other institution and not for sale and to be used only for free treatment, subject to such regulations as the Secretary of the Treasury shall prescribe."

HOSPITAL STATISTICS.

Number in United States, nearly	8, 000
Ninety-four per cent of above have private wards.	
Private-ward patients pay large prices for rooms (per week)	\$25 to \$150
Private patients pay extra for nurses, operating rooms, etherizer, resident physician, etc.	
Private patients pay large fees for operations	50 to 5, 000
These large fees are allowed by the hospitals to go to the surgeon.	
One so-called charity hospital (paying no taxes) has an annex in another part of city 400 to 500 rooms at from (per week)	30 to 100

BRIEF PRESENTED BY MESSRS. SEABURY & JOHNSON, OF EAST ORANGE, N. J.

Protest against H. R. 23, introduced April 4, 1911, by Mr. Cline, for reduction of customs duties on pharmaceutical and bacteriological products, surgical instruments, and such instruments and apparatus as are used by eleemosynary institutions.

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: We are manufacturers of pharmaceutical products and surgical apparatus as are used by eleemosynary institutions, supplying our wares to hospitals and kindred institutions, who consume a very large percentage of the output of our factory.

The great majority of these institutions are private or semiprivate institutions, charging fees for treatment given, though some have departments wherein free treatment is accorded. It is only a very minor portion who give treatment without pay, but this latter class usually represents municipal or State institutions, supported by the city or State from funds derived from the American taxpayer. Even in some of these municipal hospitals commonly supposed to be free a charge is exacted from every patient unless he be a pauper.

We prepare for and sell to these interests millions of yards of aseptic and antiseptic gauze, vast quantities of absorbent cotton and medicated cottons, splints and other dressings, appliances, and pharmaceutical products. The prices at which these goods are sold by us to hospitals and kindred institutions return only an exceedingly small profit, as competition amongst the various American manufacturers is very keen and prices to these hospitals are made with the knowledge that considerable of their work is done on a philanthropic basis, which therefore demands the very closest possible prices.

We therefore respectfully protest against the reduction to 15 per cent of the duty of 25 per cent now existing in the present tariff law, our protest being furthermore based as follows:

First. That a reduction of the duty to 15 per cent offers a serious menace to our industry and is a rate inadequate for our protection as manufacturers of the stated

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

class of products as against the English, German, French, and other foreign producer of similar products.

Second. The American labor cost in the production of these goods varies between 22 and 25 per cent of the factory cost of the finished goods. Foreign labor being only 40 to 50 per cent of the cost of American labor, a protection of not less than 12½ per cent is required to equalize the American scale on the item of labor alone, and not less than an additional 12½ per cent to cover the increased cost of merchandise in America above that of the progressive foreign countries. These percentages do not take into consideration the higher selling expenses and other charges incidental to the conduct and maintenance of the industry in America as against that in foreign countries.

Third. That with only a 15 per cent tariff on this class of goods, we are of the opinion that an American manufacturer could establish a factory abroad, and with the foreign lower ruling rates of both merchandise and labor could pay that 15 per cent duty and very successfully enter the American market to the great detriment and loss to the American manufacturers producing similar products at home. In that event benefits from investments of such capital at home will be entirely lost to home labor as well as local, State, and Federal taxes.

It is absolutely necessary therefore to at least partially equalize if not to adequately protect home industry, as against foreign, that a rate of duty of not less than 25 per cent shall be maintained, and we protest most urgently against H. R. 23 as being unfair, unwarranted and damaging to the American manufacturer.

Respectfully submitted.

SEABURY & JOHNSON,
HENRY C. LOUIS, *President.*

NEW YORK, January 29, 1913.

BRIEF OF JOSEPH A. BLAKE, NEW YORK, N. Y.

COLUMBIA UNIVERSITY,
New York, January 30, 1913.

HON. OSCAR UNDERWOOD,
*Chairman of the Committee on Ways and Means,
House of Representatives, Washington, D. C.*

MY DEAR SIR: I am informed that a movement is on foot to promote legislation in regard to the admission of instruments and apparatus, for the use of hospitals, free of duty.

Inasmuch as already many articles are now admitted free of duty, which are to be used in educational institutions for educational purposes, I strongly urge the extension of this privilege to all hospitals which are affiliated with recognized educational institutions for the instruction of students in medicine. There are many obvious reasons for so doing, chief among which is the fact that such hospitals require many instruments and apparatus of precision which are not manufactured in this country and can only be duplicated here at great expense. Another perhaps not less cogent reason is that the education of students for the degree of doctor of medicine is extremely expensive, costing in properly equipped institutions from \$500 to \$750 per capita, per year; and a large part of this expense is inculcated in providing instruments and apparatus at the hospitals for the use of the students. Although it might be said with truth that all instruments are used in such hospitals for educational purposes, they are not used solely for educational purposes, being also used for the treatment of patients; and therefore are not exempt under the present statutes. It therefore would mean an elastic interpretation of the present statutes for them to be admitted free of duty and it would be well to clear the atmosphere as to their admissibility.

Yours, respectfully,

JOS. A. BLAKE,
Professor of Surgery in Columbia University, New York.

PETITION OF GEORGE F. CLOVER, REPRESENTING THE AMERICAN HOSPITAL ASSOCIATION.

To the Honorable Members of the Ways and Means Committee, House of Representatives, Washington, D. C.

GENTLEMEN: With no wish to consume unnecessarily any of your valuable time, it would appear to be imperative that in justice to the hospitals represented by the American Hospital Association and to the plea made before you by me, as chairman of

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

a committee appointed for the purpose of petitioning that hospital instruments, apparatus, etc., be placed on the free list, some of the statements made by Mr. F. H. Thomas and Mr. Charles J. Pilling, of the American Surgical Trade Association, be answered.

ARGUMENT AS TO HARM THAT WOULD ENSUE TO SURGICAL INSTRUMENT MANUFACTURERS SEEMS TO BE OVERRATED AND OVERSTATED.

Mr. Thomas asserts that a large portion of the work done by the instrument manufacturers in this country is for the making of the newer instruments and orthopedic apparatus used in the treatment of chronic cases. The United States is the mother of orthopedic surgery, this line of surgery having been inaugurated by the late Dr. Sayre, of New York. Instruments for this service are as well made here, if not better, than abroad. They must be fitted by the surgeon to the patient and, therefore, there is no probability whatever that they will be imported. As stated by me at the hearing, the soft-metal instruments, as made in the United States, are excellent and for that reason there will be no inclination to import them.

Mr. Thomas argues that at least 60 per cent of the surgical instruments and allied articles are at the present time imported. The brief submitted by me states that 80 per cent are so imported. The discrepancy in his figures and mine is doubtless caused by the fact that I did not include orthopedic apparatus and instruments for the treatment of chronic cases in my estimate; but, accepting Mr. Thomas's figures as correct, I have little or no doubt that, including the orthopedic appliances and soft-metal instruments, the instrument manufacturers of this country would continue to supply 40 per cent of the instruments purchased for use here even with the duty eliminated altogether. There will be no desire to purchase abroad instruments that are made here and that are satisfactory to the surgeons.

THE PROPORTION OF HOSPITALS OPERATED FOR PROFIT TO THOSE MAINTAINED FOR CHARITABLE PURPOSES.

That 50 per cent of the hospitals in this country are run for profit (and profit only), as stated by Mr. Thomas, is apparently true; but, if considered from the point of services rendered and patients treated rather than from a numerical viewpoint, the ratio would be greatly altered. It would show that at least 80 per cent of these hospitals are charitable institutions. The private hospitals are, for the most part, very small affairs. Moreover, my brief for hospitals was for those only which render medical or surgical aid to the public or a portion thereof free of charge, in which instruction in medicine and nursing is given and whose expenses are borne wholly or in part by public funds, private subscription, or endowment. This excludes institutions which are maintained and run for profit.

THE USE OF SALVARSAN.

Mr. Thomas's statement that not 1 per cent of the hospitals in this country will accept syphilitic cases for salvarsan treatment is erroneous. I do not know of any hospital in the city of New York that is not purchasing salvarsan for treatment of syphilis. Had Mr. Thomas asserted that but few hospitals receive cases of syphilis to their wards in the primary or contagious state, because such cases would be dangerous to their patients, his statement would have been correct. Such cases are treated in the dispensaries of the hospitals and cases of the remoter effects of syphilis (and the number of such cases is legion) and inherited syphilis are treated with salvarsan in the wards thereof. Mr. Thomas's assertion that there is an agreement between doctors that they would only administer this treatment at a price of \$25 would make it appear all the more necessary that the hospitals be placed in a position to obtain salvarsan as cheaply as possible in order to administer it to the poor.

STATEMENTS AS TO ST. LUKE'S HOSPITAL.

As to statements regarding St. Luke's Hospital, my appearance before you was in behalf of hospitals generally and their charitable work and not to exploit St. Luke's Hospital; but as our opponent illustrated his contentions with much detail regarding this institution it is necessary that I respond by referring to it and to its acts and work specifically.

Some of the assertions made by Mr. Pilling are erroneous, while others, as they were stated, are misleading. St. Luke's is not a wealthy institution in proportion to the services it renders. It publishes for distribution to the public each year, in its

PARAGRAPH 650—SURGICAL INSTRUMENTS, ETC.

annual report, a copy of which is filed herewith (not printed), its income and its expenditure account, page 23; its balance sheet, page 24; detailed list of its assets, pages 25 and 26; statistics as to classification of patients, etc., pages 39 and 40; and a detailed expense and revenue statement, pages 43 and 44. These tabulations show that the average of the patients per day for the fiscal year ending September 30, 1912, were:

Free.....	205.0
Pay ward.....	48.0
Private room.....	42.0
Visitors (friends of patients).....	2.7

or stated in days of treatment:

Free.....	74,901
Pay ward.....	17,423
Private rooms.....	15,603
Visitors (friends of patients).....	1,570

Total..... 109,497

or stated in percentages:

Free days.....	68.41
Pay ward days.....	15.91
Private room days.....	14.25
Visitors (friends of patients).....	1.43

Besides the charitable work done in the wards, as stated above, the statistics of work in the dispensary, or out-patient department, shows that 47,298 visits were made, or an average of 216.6 visits each day, while in the visiting or home nursing department, the total visits made was 3,488, making the average patients per day, in all departments, 526. For many years several of the wards of the hospital were closed, because its revenue was insufficient to maintain them. One ward is still closed for the same reason. It has spent each year more than its income in its efforts to meet the demands made upon it for charitable, medical, and surgical relief. At the end of the last fiscal year its deficit was \$22,000. Moreover, as shown by the plan of buildings published in the report, it purposes to extend its charitable work by erecting new buildings as rapidly as its finances will permit.

PRIVATE-ROOM SERVICE.

The private-room service of the hospital does not in the least degree detract from its charitable work, but, on the contrary, it distinctly adds to it, since all revenue over and above its expenses is used for the maintenance and extension of its free work, and therefore the institution, in maintaining a private-room service, is no less charitable in character, but rather more so than one that does not maintain such service.

SPECIAL NURSING.

Mr. Pilling's statement as to extra charges made to private patients for special nurses and anesthetists implies that the hospital derives a revenue from this service. When the private graduated nurse, at the request of the patient or family of the patient, is called in from outside, she herself receives all the money collected for her services, less 50 cents per day for her board while nursing the patient in the hospital. The fee referred to as charged by the anesthetists for private patients is not charged by the hospital, but by an expert anesthetist called in for the purpose.

AS TO ALLEGED FEES CHARGED BY RESIDENT PHYSICIANS.

The entire statement on this subject is erroneous. There are no fees charged by the resident physicians and surgeons for their services.

PARAGRAPH 653—PLATINUM.**FEES OF VISITING PHYSICIANS AND SURGEONS.**

While such physicians and surgeons do, for their own protection, charge a fee to their well-to-do private patients, they invariably consider the financial condition of the patient, reducing their fees when necessary, and in many instances remitting altogether.

The replies, as above made, to the assertions regarding St. Lukes will, in a general way, answer those made as to other charitable institutions. An arthopedic hospital or dispensary, for instance, that maintains its own instrument-making shop does not do so for profit, but in order to give braces and instruments to its poor patients at a nominal charge and where necessary without any charge, and in other ways to further its charitable work.

Respectfully submitted.

GEO. F. CLOVER.

WASHINGTON, *District of Columbia*:

Subscribed and sworn to before me this 5th day of February, 1913.

[SEAL.]

EDWIN D. FLATHER,
Notary Public.

PARAGRAPH 651.

Phosphates, crude.

PARAGRAPH 652.

Plants, trees, shrubs, roots, seed cane, and seeds, imported by the Department of Agriculture or the United States Botanic Garden.

PARAGRAPH 653.

Platinum, unmanufactured or in ingots, bars, plates, sheets, wire, sponge, or scrap, and vases, retorts, and other apparatus, vessels, and parts thereof, composed of platinum, for chemical uses.

PLATINUM.**THE WAYS AND MEANS COMMITTEE,**

United States House of Representatives, Washington, D. C.

GENTLEMEN: In preparing the new revenue act permit us to call to your attention paragraph 653 on the free list of the existing law.

This paragraph reads: "Platinum, unmanufactured or in ingots, bars, plates, sheets, wire, sponge, or scrap, and vases, retorts, and other apparatus, vessels, and parts thereof, composed of platinum, for chemical uses."

On account of the extreme high price of platinum, which has more than doubled in price within the past five years, we respectfully request that no duty be imposed on unmanufactured platinum, ingots, bars, plates, sheets, wire, sponge, or scrap.

The domestic source of supply amounts to not more than 300 to 500 ounces annually, nearly the entire quantity imported being of Russian origin.

In reference to platinum for chemical purposes, if it is the intention of the committee to make this dutiable, we would suggest that not over 5 per cent or 10 per cent be fixed as the rate, on account of the high value of platinum.

Furthermore, several constructions can be placed on the wording of the existing law. While "platinum for chemical purposes" was intended only to apply to articles for analytical work or the manufacture of chemicals, we call to your attention that there are a number of articles and appliances made of platinum for attachment to machines and mechanical devices designed to be brought in contact with or convey chemicals, but their application or use is only incidental to the manufacture and treatment of materials that could not in any way be classified as chemicals. Therefore, these articles should not be exempt from duty under this paragraph.

We request also, for the reasons above stated, that no duty be placed on the items covered by paragraph 595, which are known as the platinum group of metals.

Very respectfully,

J. BISHOP & CO. PLATINUM WORKS,
By CHAS. H. KERK, *Secretary.*

MALVERN, PA., *January 30, 1913.*

PARAGRAPH 655—CAUSTIC POTASH.

PARAGRAPH 654.

Plumbago.

PARAGRAPH 655.

Potash, crude, or "black salts"; carbonate of potash, crude or refined; hydrate of, or caustic potash, not including refined in sticks or rolls; nitrate of potash or saltpeter, crude; sulphate of potash, crude or refined, and muriate of potash.

See also W. H. Bower, p. 5873.

CAUSTIC POTASH.

TESTIMONY OF MR. C. C. SPEIDEN.

The witness was duly sworn by Mr. Harrison.

Mr. SPEIDEN. Mr. Chairman and gentlemen of the committee, you will permit me to say that my first rough statement on this subject was made as the result of a casual conversation. At that time I had no idea or intention of appearing before your committee. Some of the facts stated, however, came to the attention of several consumers of the goods in question, who suggested that I put before you further facts pertaining to the subject.

Mr. HARRISON. Now, Mr. Speiden, before you leave that subject, if you will allow me to interrogate you. You are to testify as to paragraph 655 of the present bill?

Mr. SPEIDEN. Yes.

Mr. HARRISON. As to the articles, hydrate of potash—

Mr. SPEIDEN. Yes, and carbonate of potash.

Mr. HARRISON. Not including refined, in sticks or rolls. Is that correct?

Mr. SPEIDEN. Yes, sir; that is correct.

Mr. HARRISON. Well, now, are you a member of the firm of Innis & Speiden?

Mr. SPEIDEN. Innis, Speiden & Co.; yes, sir.

Mr. HARRISON. And you are the author of a letter to the New York Evening Post concerning the imposition of a duty upon this article, a couple of weeks ago, are you not?

Mr. SPEIDEN. I plead guilty to that; yes, sir.

Mr. HARRISON. I understood that. I wish to elaborate a little on that. And in that letter you suggested that for years this article had been on the free list and had remained so until this Congress, yielding to the persuasions of a single American manufacturer of this article, had placed the duty upon it and intended to protect the manufacturer. Is that correct?

Mr. SPEIDEN. That was an inadvertent form of a part of statement.

Mr. HARRISON. Now, I understand you now that you wish to say that you were misinformed, and that you retract that statement?

Mr. SPEIDEN. I certainly will, so far as it applies in that way.

Mr. HARRISON. Now please proceed.

Mr. SPEIDEN. One of the members of your committee also suggested that you would like to hear further facts concerning the subject.

Just how the real facts of any situation may be obscured by those seeking tariff favors was probably never better illustrated than in the

PARAGRAPH 655—CAUSTIC POTASH.

recent hearing before the Ways and Means Committee when the one and only manufacturer of caustic potash in America sought to have a duty placed upon this article. (All the arguments against a duty on caustic potash apply with equal or greater force to any duty on carbonate of potash, which is also largely used by the woolen, soap, and glass industries; also in some tobacco fertilizers potash is required in the form of carbonate.)

For over 20 years, under all tariffs. Republican and Democratic alike, caustic potash (also carbonate of potash) has been on the free list. It is used extensively in soap and woolen goods making (also in electroplating and fine chemical industries). It is made chiefly by electrolysis of the muriate of potash from the Stassfurt mineral potash deposits in Germany.

A few years ago an enthusiastic inventor, thinking he had discovered a process that would produce caustic potash economically, induced a large chemical firm to allow him to work out his theory in their laboratory, where it was clearly demonstrated that the process was neither practical nor economical, and the experienced chemical firm promptly dropped it. The persuasive inventor, however, had better success with some Wall Street promoters, who were induced to go into it on a manufacturing scale and in due course of time a small factory was installed at Niagara Falls.

This factory demonstrated in a larger and more conclusive way the unprofitableness of the undertaking, but the investment had been made and, as was only natural, the undertaking was kept alive in the hope that something might be done to extricate the unfortunate investors. Something was done, namely, debts were incurred—a very substantial one being that owed to the producer of the muriate of potash in Germany, who, to save himself, took over a controlling interest in the reorganized business, only to find that the advantage of ownership of raw material 4,000 miles away was not sufficient to offset other disadvantages inherent in the project itself.

It now became the turn of the new German owner to devise some method of extrication, and obviously that offered by a protective tariff appealed most strongly to him, since with sufficient protection he could make a profit on both his muriate of potash refined from the crude potash salts in Germany, and the caustic potash converted from this muriate here. Accordingly, at the recent hearing before the Ways and Means Committee specious arguments were advanced by the representatives of this foreign owner as to why a duty of \$20 per ton should be imposed on this article, which is essentially raw material in the soap making and woolen manufacturers' industries. Many irrelevant and misleading statements were made, to which, according to the record, no refuting testimony was offered, and on its face it would seem that the committee were allowed to remain in ignorance as to the real facts. It would appear that the German's representatives bald assertion that the price need not be raised more than 25 per cent to afford him his desired protection was somewhat at variance with the policy of a downward revision of the tariff, or free raw materials.

We believe it will only be necessary to have the pertinent facts fully understood by your committee to have them realize the injustice

PARAGRAPH 655—CAUSTIC POTASH.

of changing a policy that has obtained for nearly a generation in respect to these articles, to have them retained upon the free list, and that the danger will be averted of having a duty put on them for the benefit of an investor whose residence is foreign, and whose main interests are also foreign, at the expense of several of our most important industries.

It is a fair conclusion that the manufacture of caustic potash is not a "legitimate" American industry, in the technical sense of the word, and the manufacture of carbonate of potash is not an American industry at all.

The agents of the Niagara Falls potash factory have made a long statement referring to what they term the "evasion" of duty on caustic potash by bringing in the 90 per cent goods, and refer to the paragraph in the tariff which provides for caustic potash, refined, in sticks or rolls, as dutiable at 1 cent per pound. This is a palpable attempt to befog the issue, as the use of this so-called stick or roll form of caustic potash is infinitesimal as compared with the regular mass form of the article. The figures will show, probably, that less than 1 per cent of the importations of caustic potash are in the stick or roll form, which is usually peddled in 1, 2, or 5 pound lots for the smallest kind of industries, so that the argument based upon this clause is a palpable quibble.

The showing of selling prices of caustic potash from 1907 to date is grossly incorrect. They show a range of prices from 7.52 cents to 4.15 cents. As a matter of fact, the prices of standard quality electrolytic caustic potash from 1906 to 1913 range from 5 cents to 4½ cents, with one period during 1908-9 when the price was 5.60, the highest price for usual contract quantities that has obtained during the past eight years. The prices for the eight years in question have been as follows:

	Cents.	
1906.....	5	to 5½
1907.....	5	to 5½
1908.....	5.60	to 5.85
1909.....	5½	to 5¾
1910.....	5½	to 5¾
1911.....	5½	to 5¾
1912.....	4½	to 4¾
1913.....	4½	to 4¾

They make a statement, by implication, that the imported caustic potash is sold with a guarantee that the importers shall pay any duty that may be assessed. This is absolutely untrue so far as our firm is concerned, and we believe this applies to all other importers as well. It is also contradicted by their own advertisements.

They make a point of other potash salts than caustic carrying a duty, and enumerate several of them. The conditions pertaining to the manufacture of these other materials are essentially different, and the sources of a considerable part of their raw materials are largely domestic.

An important point to bear in mind is that the conversion of the refined muriate into the potassium hydrate (caustic potash), which is all that is attempted by the factory in question, is a very small part of the manufacturing processes necessary to make the pure caustic potash from the natural German potash salts as mined. The crude

PARAGRAPH 655—CAUSTIC POTASH.

salts are obtained largely in a low degree of purity, 20 per cent or so of actual potash, which is found mixed with other potash and magnesium salts. This crude material has to be put through several processes to separate the various ingredients of the native salt as mined, in order to produce the refined muriate, which is the Niagara factory's starting point. This is a very much more elaborate and extensive process than what might be termed, in comparison, the simple finishing or conversion process from the refined muriate into the caustic, which is all that is attempted in this country. There are several hundred thousand tons of muriate of potash in various degrees of purity imported, and if the small amount of revenue involved be the object and necessity of this tax, a duty of 1 or 2 per cent on this muriate would yield considerably more revenue than the suggested tax on the converted caustic potash which is asked by this foreign owner of the plant in question.

I am reliably informed that this plant is equipped for making either caustic soda or potash at their option. Caustic soda is protected by a duty equal to about 50 per cent ad valorem, and the raw material for it is domestic common salt.

I may say that I have been fairly well in touch with the producers and consumers of these two articles, caustic and carbonate of potash, for the past 25 years, and will be glad to answer any questions and to give any information in my power that any of the gentlemen of the committee may desire.

I have said that for over 20 years, under all tariffs, Republican and Democratic alike, caustic potash (also carbonate of potash) has been on the free list. I will say that that applies to over 99 per cent of the caustic potash. The refined potash, in sticks and in rolls, is a very negligible quantity.

Mr. HARRISON. Mr. Speiden, we do not want to get back into exactly the same position in which we have been on the subject. When you refer to the testimony given by the representative of this Niagara Alkali Co., do you refer to his statement before the Ways and Means Committee about 10 days ago, or to his statement—

Mr. SPEIDEN (interposing). A month ago; the 6th of January.

Mr. HARRISON (continuing). Or to his statement before the Senate Finance Committee last spring?

Mr. SPEIDEN. The recent testimony.

Mr. HARRISON. The recent testimony?

Mr. SPEIDEN. That is what I refer to.

Mr. HARRISON. Of course, in making this statement you realize that the two statements made by this representative of this company as to claims upon a protective duty were made after the bill had passed the House of Representatives?

Mr. SPEIDEN. Yes.

Mr. HARRISON. And that no suggestions were ever made by him or by anybody else to place a protective duty upon this article, and this article was placed there simply for revenue purposes?

Mr. SPEIDEN. Yes; so far as you are concerned.

Mr. HARRISON. The statements were made by him after we placed a revenue duty upon carbonate of potash; then he rushed into the field to make an argument why a duty should be placed upon it.

PARAGRAPH 655—CAUSTIC POTASH.

Mr. SPEIDEN. I will say, Mr. Harrison, that two or three years ago, or at the time when these negotiations for the transfer of the plant to its present owner were going on, and before the claim was made more or less openly that there should be a duty placed upon the article. I know that for a fact.

Mr. HARRISON. However you may have had it, you know that it was not made openly to the ears of Congress?

Mr. SPEIDEN. I quite fully realize that, Mr. Harrison, and the statements that were made were no doubt intended as a confirmation of the action of the committee, to give an additional reason for the step the committee had taken prior to those statements.

The CHAIRMAN. Any questions, gentlemen?

Mr. HILL. I want to congratulate you on having exploded one unfair public criticism of the action of this committee in doing what they thought to be for the public interest, and I simply say that it is a fair illustration of a very large number of similar criticisms which have been made upon previous occasions, in the same way.

Mr. SPEIDEN. Yes.

Mr. HILL. I am glad that this one has been exploded.

Mr. SPEIDEN. I am very glad to have the opportunity to do so, Mr. Hill, and to say that there was no personal reflection upon anybody. It was something which the man in question asked me to write down without the slightest intention of pursuing it further, but it came to the attention of several men who were interested and they pressed it further. It would be a very happy thing for the country if all previous criticisms were likewise exploded.

The CHAIRMAN. Thank you.

BRIEFS SUBMITTED BY INNIS, SPEIDEN & Co., NEW YORK CITY.

INNIS, SPEIDEN & Co.,
New York, January 22, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: A recent incident in the tariff hearings merits more than passing attention in order to prevent a rank injustice being done to an important class of consumers.

For 30 years, under all tariff bills, Republican and Democratic alike, caustic potash has been on the free list. It is used in the woolen, soap, electroplating, and fine chemical industries in America. It is made chiefly by electrolysis of the muriate of potash from the Stassfurt mineral potash deposits in Germany.

A few years ago an enthusiastic inventor, with a great deal of the magnetic, persuasive quality, thought he had invented an electrolytic cell that would produce chlorates, and incidentally caustic potash, economically from this German muriate, but after exhaustive experiments in the laboratory of a large New York chemical house it was demonstrated to these chemical merchants that the inventor's theories could not be worked out profitably. His persuasive powers, however, had better success with some Wall Street promoters, who were induced to invest in a small factory at Niagara Falls to enable him to make the wonderful profits that his process, as elaborated by him on paper, promised.

The money was spent. The small plant was put up; but, as in the case of the experienced chemical merchants, it was again demonstrated, much more expensively, to the Wall Street promoter and his friends that the scheme would not work out profitably. It would be almost as reasonable to attempt to raise oranges under glass in Central Park as to try to electrolyze a solution of muriate of potash which had to be brought to seaboard from the interior of Germany, then across the ocean, and then up to Niagara Falls in competition with the people who could make these goods on the spot where the cruder goods, viz, muriate of potash, were produced at the pit's mouth in Germany. The oranges could be raised in Central Park with sufficient protection if the cost were

PARAGRAPH 655—CAUSTIC POTASH.

no object, and so could the caustic potash be made in Niagara Falls under adverse conditions if cost and expense were no object.

The manufacturer limped along with various vicissitudes, suspensions, fires, etc. (the inventor had long since dropped out), but the Wall Street backer was a resourceful man and kept the project alive until it had incurred a considerable debt to the German furnishers of the muriate of potash. He was then shrewd enough to induce this German, after his bill got big, to take over the plant. It was represented simultaneously that no doubt the tariff commission could be induced to put a protective duty on the article, so as to enable the foreigners eventually to collect their indebtedness. In other words, they were clever enough to induce the foreigners to send some good money after bad in the hope of getting the American consumers, embracing a large proportion of our woolen and soap manufacturers, to help them collect their debt and consequent investment in this indirect way.

Every Congress up to the present one has resisted their arguments; but, urged on by the silver-tongued emissary of the German owner, the present one proposes to put a duty of \$11 per ton on his raw material (the German wanted \$20) for the benefit chiefly of a man who is one of the most wealthy potash mine owners in Germany and the one who was more instrumental than any other man in bringing on the potash controversy which threatened to disrupt relations between this country and Germany a couple of years ago.

In a recent hearing before the Ways and Means Committee of Washington the question was presented solely by the representatives of this German owner, and many of the statements made in this testimony were very irrelevant, misleading, and untrue; but no refutation of them was made, according to the record. He baldly proposes that the selling price need not be raised more than 25 per cent to give him the desired protection.

This factory is almost entirely owned and financed by the wealthy German potash mine owner mentioned and a German bank. It is the only producer of caustic potash in America, and together with its caustic soda department (which is already amply protected by 50 per cent or more duty) employs totally from 50 to 60 hands, and from the circumstances of the case its potash department can never be made a self-sustaining industry on an equitable basis.

If the small amount of revenue involved be the object, several times as much would be furnished by a half dollar per ton on the importations of the cruder form of muriate of potash, but this is probably unnecessary. Caustic and carbonate of potash should remain on the free list, and thus avoid a most glaring instance of a needless tax on American consumers for the sole benefit of a small side show of an alien monopolist.

C. C. SPEIDEN.

NEW YORK, *December 30, 1912.*

Messrs. JOS. BIECHELE SOAP CO.,
Canton, Ohio.

GENTLEMEN: We would call your attention to that part of the chemical schedule in the Underwood bill as passed by the House of Representatives last spring, which provides for the duty of one-half cent on carbonate of potash, and six-tenths cent on caustic potash.

These articles have been on the free list in this country on the Republican tariff bills and Democratic tariff bills alike, for nearly 30 years, and there seems to be no valid reason for putting a duty on them other than the desire of the proprietors of a small factory at Niagara Falls who recently began to manufacture caustic potash on a moderate scale, and one of their consumers who is trying to recover moderate quantities of the carbonate.

The factory in question is the property almost entirely of a wealthy German owner of one of the large Strassfurt, Germany, potash deposits, and a prominent member now of the German Potash Trust. It would seem inequitable that the hundreds and even thousands, indirectly, of consumers of these materials should be taxed for the chief benefit of the principal owner of this Niagara Falls plant, and inasmuch as we notice that the hearing on the chemical schedule in the committee of House of Representatives will be held on January 6-8, 1913, we suggest that in the mutual interest of all concerned that it would be as well to make some representation or protest against any renewal of the proposition to tax these two articles.

If the matter appeals to you, as it no doubt does, we suggest that you write your Congressman or Senator and exert such influence as you can to have this matter decided on its merits and not from the one-sided hearing from the agents of the beneficiary of the tax above mentioned.

Yours, truly,

INNIS, SPEIDEN & CO.

PARAGRAPH 655—CAUSTIC POTASH.

MONONGAH GLASS CO.,
Fairmont, W. Va., February 1, 1913.

Hon. C. W. WATSON,
United States Senate, Washington, D. C.

MY DEAR SIR: I am inclosing you copy of letter addressed to Hon. Oscar W. Underwood by Messrs. Innis, Speiden & Co., of New York City, regarding the matter of carbonate of potash.

This is a material that we use in our business and we have never used a pound of it made in this country. It would appear that it would be unwise to put a duty on an article that is not made in this country; at least, not to any extent.

We call the matter to your attention so that if it should come up during the tenure of your office, that you will have some information on the subject, and we solicit your influence against the assessing of a duty on this material.

Yours, very truly,

MONONGAH GLASS CO.
H. L. HEINTZELMAN, *President.*

BRIEF OF PETERS, WHITE & CO., NEW YORK.

New York, January 31, 1913.

Hon. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: As importers of caustic potash we would like to review and correct some of the statements made by the Niagara Alkali Co., the only makers of electrolytic caustic potash in this country.

Caustic potash has always been on the free list, and this company started their business with the full knowledge of this fact. The original company, the Roberts Chemical Co., were unsuccessful, and the company was taken over by an owner of German potash mines who had supplied this company their requirements of muriate, and is now controlled by him or his interests.

The prices submitted under Exhibit A are far at variance with prices at which we have been selling the last seven years, which are as follows:

1906	5.25
1907	5.25
1908	5.62½
1909	5.50
1910	5.12½
1911	4.80
1912	4.50
1913	4.50

Under Exhibit B, invoice of German Kali Syndicate, dated August 20, the Niagara Alkali Co. have omitted to include a further 6¼ per cent rebate which they receive over and beyond the one entered.

We would further correct the statement that no guaranty has been made to customers that if duty should be imposed importers will pay same.

The total importation of caustic potash is not a large one, and the revenue the Government would receive would be small, the tax falling for the most part on soap and woolen manufacturers.

It would seem as though caustic potash should remain on the free list.

Respectfully submitted.

PETERS, WHITE & Co.,
S. W. WHITE, *Treasurer.*

BRIEF SUBMITTED BY E. C. KLIPSTEIN, NEW YORK.**CAUSTIC POTASH OR HYDRATE OF POTASH AND CARBONATE OF POTASH.**

Hon. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee:

Paragraph 69 of House bill 20182 places a duty of one-half cent per pound on bicarbonate of potash and carbonate of potash refined, and six-tenths of a cent per pound on hydrate of potash (caustic potash), removing both from the free list of the present tariff.

PARAGRAPH 658—QUINIA.

The information regarding caustic potash given in Report No. 326 of the Sixty-second Congress on Schedule A is entirely misleading.

It speaks of "American establishments" making caustic potash when there are no "establishments." It says that many soap makers causticize carbonate of potash, which is absolutely incorrect as to this country. As a matter of fact, the consumption of caustic potash in this country in 1890 was about 500 tons. The removal of the duty led to a steady increase in consumption until to-day it amounts to about 4,500 tons, chiefly used in making potash soaps for the woolen industry, to the immense benefit of the industry.

Since the invention of the electrolytic process, practically all caustic potash is made from potassium chloride, which is a product of the German potash mines and is obtainable nowhere else in any quantity. In order to manufacture caustic potash in the United States, potassium chloride must be transported 4,000 miles to an electrolytic plant, and in order to overcome the heavy freight expense for such transportation, Congress is asked to impose a duty of six-tenths of a cent per pound, or \$12 per ton on caustic potash. Such a tax would cost the people of the United States \$50,000 yearly, while the Government would get no revenue. And the beneficiaries of such a tax would not be Americans, but Germans; for the only "establishment" in this country proposing to make caustic potash is the Niagara Alkali Co., at Niagara Falls, N. Y. And that company is chiefly owned by a German potash mine owner and financed by a German bank, the Disconto Gesellschaft of Berlin. These Germans seem to believe that they can control the action of Congress. They have been publicly asserting for the past year their intention of "having a duty put on caustic potash." It would seem that, under the circumstances, it would be the part of wisdom to give consideration to the consumers of caustic and carbonate of potash, the glass manufacturers, soap makers, and woolen mills, and leave both these products in the free list rather than impose a duty which would be a heavy burden on these industries without producing any revenue.

Respectfully submitted.

E. C. KLIPSTEIN.

NEW YORK, *January 6, 1913.*

PARAGRAPH 656.

Professional books, implements, instruments, and tools of trade, occupation, or employment, in the actual possession at the time of arrival, of persons emigrating to the United States; but this exemption shall not be construed to include machinery or other articles imported for use in any manufacturing establishment, or for any other person or persons, or for sale, nor shall it be construed to include theatrical scenery, properties, and apparel; but such articles brought by proprietors or managers of theatrical exhibitions arriving from abroad, for temporary use by them in such exhibitions, and not for any other person, and not for sale, and which have been used by them abroad, shall be admitted free of duty under such regulations as the Secretary of the Treasury may prescribe; but bonds shall be given for the payment to the United States of such duties as may be imposed by law upon any and all such articles as shall not be exported within six months after such importation: Provided, That the Secretary of the Treasury may, in his discretion, extend such period for a further term of six months in case application shall be made therefor.

PARAGRAPH 657.

Pulu.

PARAGRAPH 658.

Quinia, sulphate of, and all alkaloids or salts of cinchona bark.

QUINIA.**BRIEF SUBMITTED BY NEW YORK QUININE AND CHEMICAL WORKS.**

To the Hon. O. W. UNDERWOOD,
Chairman Ways and Means Committee,
House of Representatives:

In reply to notice of tariff hearings, we beg to recommend that paragraph 658 of the tariff of 1909 be omitted. This would throw quinine and the salts and derivatives

PARAGRAPH 658—QUINIA.

of cinchona bark into paragraph 3 and would produce a revenue of \$140,763.20 per year, based on present market price and the imports of 1911.

These figures are based on a laid down cost to-day of 19 cents per ounce, which we believe is the lowest obtainable, less 1 cent per ounce to cover transportation, packing, commissions, etc., which is deducted to arrive at value in country of origin. All indications point to higher prices than this over the next few years, and this would return a corresponding increase in the revenue. Importations would be very little decreased, as American factories have not facilities enough to supply the demand. The foreign combination of manufacturers are able to work more cheaply than we, and will sacrifice part of their profits rather than abandon this market.

The foreign combination of quinine manufacturers sell to the entire world, getting 75-80 per cent of the entire business, whereas the American manufacturers do not export an ounce and get less than half of the business of this country, as is shown in the following table:

	Cinchona bark imported.	Average test.	Quinine manufactured in United States.	Quinine imported.
	<i>Pounds.</i>	<i>Per cent.</i>	<i>Ounces.</i>	<i>Ounces.</i>
1902.....	3,931,927	5.51	3,466,386.72	3,580,670
1903.....	3,540,315	5.32	3,013,516.00	3,129,919
1904.....	4,348,653	5.27	3,666,784.16	3,936,218
1905.....	3,501,620	5.49	3,075,822.88	2,500,209
1906.....	5,181,516	5.72	4,742,123.36	6,347,427
1907.....	4,138,900	6.07	4,019,699.68	3,346,046
1908.....	3,269,366	6.32	3,305,982.88	1,840,398
1909.....	3,768,500	6.36	3,834,825.60	2,207,250
1910.....	3,075,115	6.36	3,129,237.28	2,856,019
1911.....	3,569,605	6.73	3,843,750.56	3,350,296

The third and fourth columns are taken from the figures of the Bureau of Statistics. The second column, giving the average percentage of quinine sulphate in bark for the year, shows the official tests of the public auctions in Amsterdam, where all cinchona bark is marketed. The third column is a calculation from the first and second.

The public will suffer no appreciable loss, the tax being only about five one-hundredths of a cent per dose of five grains.

The tax was removed over 30 years ago by a special bill, as the result of a campaign conducted anonymously in one of the daily papers, which by false representations created a public outcry and an hysterical demand for the removal of the tariff tax. At that time quinine sulphate was much higher priced and the tax amounted to about 70 cents per ounce.

Respectfully submitted.

NEW YORK QUININE & CHEMICAL WORKS (LTD.).

NEW YORK CITY, January 15, 1913.

BRIEF OF POWERS-WEIGHTMAN-ROSENGARTEN CO., PHILADELPHIA, PA.

PHILADELPHIA, January 31, 1913.

HON. OSCAR UNDERWOOD,

Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.

DEAR SIR: By striking this paragraph (658) from the free list, the articles imported under this head will automatically fall into paragraph 3 of the dutiable list, thereby yielding the Government at the present rate of duty over \$100,000 per annum in revenue, as is shown by the following:

Importations of quinia, sulphate of, and all alkaloids or salts of cinchona bark.

Year ending --	Weight. (ounces).	Value.	Estimated duty (at 25 per cent).
June, 1910.....	2,991,071	\$411,307	\$102,826.75
June, 1911.....	3,218,586	436,138	109,034.50
June, 1912.....	3,086,627	467,494	116,873.50

PARAGRAPH 661—REGALIA.

That the ultimate consumer is but slightly affected by omitting this paragraph from the free list is shown by the following:

The market price to-day of sulphate of quinine is $21\frac{1}{2}$ cents per ounce. An ounce avoirdupois contains 437 grains. Assuming a fair average dose of sulphate of quinine to be 5 grains, it is easily calculated that 25 per cent of $21\frac{1}{2}$ cents equals $5\frac{87.5}{100}$ cents or about $1\frac{1}{2}$ mills on each dose of 5 grains. The average market price in the past 10 years has been as follows:

Quinine, American, per ounce.

	High.	Low.		High.	Low.
	Cents.	Cents.		Cents.	Cents.
1903.....	28	23	1908.....	16	15
1904.....	27	21	1909.....	15	14
1905.....	23	19	1910.....	14	14
1906.....	19	14 $\frac{1}{2}$	1911.....	14	14
1907.....	22	16	1912.....	19 $\frac{1}{2}$	14

Respectfully submitted.

POWERS-WEIGHTMAN-ROSENGARTEN Co.
A. G. ROSENGARTEN, *Treasurer.*

PARAGRAPH 659.

Radium.

PARAGRAPH 660.

Bags, not otherwise specially provided for in this section.

PARAGRAPH 661.

Statuary and casts of sculpture for use as models or for art educational purposes only; regalia and gems, where specially imported in good faith for the use and by order of any society incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, seminary of learning, orphan asylum, or public hospital in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe; but the term "regalia" as herein used shall be held to embrace only such insignia of rank or office or emblems as may be worn upon the person or borne in the hand during public exercises of the society or institution, and shall not include articles of furniture or fixtures, or of regular wearing apparel, nor personal property of individuals.

See Thomas M. Lane, page 5747.

REGALIA.**BRIEF SUBMITTED BY THE ANDREW MESSMER CO., CINCINNATI, OHIO.**

CINCINNATI, OHIO, *January 8, 1913.*

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: We are addressing you under paragraph No. 649, free list, of the act, of 1897, on the subject of "regalia," imported free of duty for churches and other institutions of a public character.

Under the designation "regalia" are imported, free of duty, metal vessels, chalices, ciboria, and ostensoria, used in churches for public services; vestments, banners, and a minor assortment of other church articles.

We manufacture a general line of ecclesiastical metal work, but are chiefly interested in this memorandum in the free entry of chalices, ciboria, and ostensoria, which are costly, high-grade, and artistic lines of ecclesiastical work, and embrace the most valuable and highest-paid part of our production. Strictly skilled labor must be employed in the production of such goods, and labor forms from 70 to 80 per cent of

PARAGRAPH 661—REGALIA.

the cost of production. We are compelled to pay about two-thirds more wages than our competitors in Europe; and we can not therefore fairly compete with them if they are allowed to send their goods to the United States free of duty.

We know of no tariff provision in any paragraph which permits free import to church furniture, fixtures, or equipment other than such as may be classified as works of art and the exceptions growing out of the peculiar wording of the paragraph No. 649. In this paragraph "church furniture and fixtures" are expressly excepted from free import as "regalia," showing the intent of Congress to levy a uniform duty on articles of church use, the same as any other form of article imported in this country.

The articles, which we ask the committee to except from the free list, chalices, ciboria, and ostensoria, are not works of art, but are the products of art industry. This industry has developed to such an extent in this country that we are in a position to compete with European manufacturers in quality and artistic execution; but in recent years the importation of this class of goods has cut down to a minimum the production of chalices, ciboria, and ostensoria. Machinery can not be used in the manufacture of these goods, and consequently we are not in a position to make them in better time than our European competitor. The class of labor necessary for the making of chalices, etc., costs us two-thirds more than in Europe, as stated above, and hence our inability to compete with European prices.

Another argument against the free admission of metal church goods is that it breeds class discrimination. If a dealer orders a chalice on his own account, that chalice is subject to a 45 per cent duty; but if he orders that same chalice for a church, under affidavit that it will be borne in hand as an insignia of office, he can import it free of duty. This is a direct case of class discrimination. If there is a duty imposed by Congress, that duty should be collected regardless of the person ordering the article. The churches get their entire support from the people of this country, and mostly from the laboring class, and it is only just that the churches, in turn, should help American industry and in that way help the American workman, so that the latter can continue to contribute to the support of his church.

Many foreign houses advertise "free import" on each page of their catalogue and spread these catalogues throughout the country. Many of the foreign houses have agencies in this country. Many of these agencies do business from an office, and carry little or no stock in trade, and take their orders from catalogues, which orders are executed abroad. The work of these agencies, along with the work imported by importing houses having a permanent residence in this country, is best evidenced by the figures of the customs authorities.

It is not our intention to have the committee redraft the entire paragraph No. 649, but simply to petition it to strike from this paragraph the words "or borne in hand," and the manufacturers of this country will be placed on an even footing with their foreign competitors, the industry in this country will be developed to its fullest extent, and the manufacturer will be able to pay wages in accordance with the high class of skill necessary for the production of this class of goods.

Respectfully, yours,

THE ANDREW MESSMER CO.

PETITIONS RELATIVE TO FREE ENTRY OF REGALIA FOR RELIGIOUS OR EDUCATIONAL PURPOSES.

THE COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

SIRS: The undersigned respectfully urge upon your committee and Congress that the provision for the free entry of regalia specially imported in good faith for the use and by order of churches, public institutions, and societies of a religious or educational nature as it now appears in paragraph 661 of the tariff act of 1909, be retained without change.

Respectfully, yours,

J. Card. Gibbons; Henry Moeller, archbishop of Cincinnati; James J. Keane, archbishop of Dubuque, Iowa; Benjamin J. Keiley, bishop of Savannah, Ga.; James J. Davis, Davenport, Iowa; Camillos P. Maes, bishop of Covington, Ky.; Edward P. Allen, bishop of Mobile, Ala.; James J. Hartley; James Schwebach, bishop of La Crosse, Wis.; E. D. Kelly, auxiliary bishop of Detroit, Mich.; H. J. Alerding, bishop of Fort Wayne, Ind.; Chas. H. Colton, bishop of Buffalo, N. Y.; Henry P. Northrop, bishop of Charleston, S. C.; John Janssen, Belleville, Ill.; Leo Haid, O. S. B., bishop of North Carolina; Chas. E. McDonnell,

PARAGRAPH 668—MUSTARD SEED.

bishop of Brooklyn, N. Y.; John J. O'Connor, bishop of Newark, N. J., Regis Canevin, bishop of Pittsburgh, Pa.; E. A. Garvey, bishop of Altoona, Pa.; P. J. Donahue, bishop of Wheeling, W. Va.; D. J. O'Connell, bishop of Richmond, Va.; John J. Monaghan, bishop of Wilmington, Del.; John E. Fitzmaurice, bishop of Erie, Pa.; Thomas S. Byrne; Nashville, Tenn.

PARAGRAPH 662.

Bennets, raw or prepared.

PARAGRAPH 663.

Saffron and safflower, and extract of, and saffron cake.

PARAGRAPH 664.

Sago, crude, and sago flour.

See John A. T. Hull, page 6009; Leo Stein, page 6035; National Gum & Mica Co., p. 6043.

PARAGRAPH 665.

Salicin.

PARAGRAPH 666.

Salap, or salop.

PARAGRAPH 667.

Sausages, bologna.

PARAGRAPH 668.

Seeds: Anise, canary, caraway, cardamom, cauliflower, coriander, cotton, cummin, fennel, fenugreek, hemp, hoarhound, mangel-wurzel, mustard, rape, Saint John's bread or bean, sugar beet, sorghum or sugar cane for seed; bulbs and bulbous roots, not edible and not otherwise provided for in this section; all flower and grass seeds; evergreen seedlings; all the foregoing not specially provided for in this section.

MUSTARD SEED.**BRIEF OF THE R. T. FRENCH CO., ROCHESTER, N. Y.**

ROCHESTER, N. Y., *February 12, 1913.*

HON. OSCAR W. UNDERWOOD,

Chairman the Ways and Means Committee,

House of Representatives, Washington, D. C.

SIR: We desire to request that the committee may report in favor of having this article remain upon the free list.

In addition to mustard flour there is prepared from the mustard seed an article that is known as prepared mustard, the consumption of which in this country is enormous. It is the most popular sauce or condiment that is used and is used almost exclusively by the poorer people—people of moderate means and by the working man.

Prepared mustard is a preparation of mustard seeds and vinegar with spices. To give you an idea of the enormous consumption of this article we would say that in the city of Rochester alone there is produced and shipped from 12,000 to 18,000 barrels of this article every year. In the city of Rochester alone, a city of 210,000, it takes from four to five carloads of empty tumblers to supply the demand for a 5-cent package of this tumbler mustard.

A package containing 8 ounces is sold in this city for 5 cents, and a package containing 11 ounces of the highest grade it is possible to make is sold in various portions of the country for 10 cents.

The sales in the city of Rochester are cited because we know what they are and we also know that the sales in other cities of the United States are proportionate. There is hardly a city that has not its prepared-mustard mills and some of them a number of concerns manufacturing this article.

The competition is very keen. We are selling to-day prepared mustard at 10 cents per gallon. Of course the higher grades made from higher-grade seeds are sold for higher prices. Competition being exceedingly keen, the goods are sold exceedingly close. The very largest possible package is being given for a nickel or for 10 cents, and a duty upon the seed would increase just in proportion to the amount of duty the cost of the prepared mustard to the manufacturer and would make necessary an increase in the gallon price to the consumer and a decrease in the size of the package

PARAGRAPH 670—SHOTGUN BARRELS.

that is at present sold for a nickel and a decrease in the size of the 10-cent package and would be felt keenly by the great mass of the people who are using prepared mustard because, you must know, prepared mustard is used to make the coarser foods more savory and palatable. In many instances the poorest class of people spread it on their black bread or their rye bread, sometimes with a piece of meat—often without.

Under the regulations of the pure-food laws the goods that are sold are healthful and are a part of the daily food of the very great majority of the American people, and it would seem to me that it is very far from the intention of the committee to increase the cost of such staples to the poorer consumer.

In addition to the above we have built up an export business with the Dominion of Canada; one city alone buying from five to seven carloads of these goods per annum, and we are shipping these goods from this point. A duty upon mustard seed would ruin this business.

There have been inquiries made from the finer trade in England for the best American prepared mustards and there is a possibility of a growing export business on account of the excellence of American manufacture, the standard of purity, and the quality; and a duty upon mustard seed would prevent the business, not only of shipping into England and into Canada, but of taking advantage of the business that the South American trade is now opening to the American manufacturer.

Of course the manufacture of mustard is one of the small spokes in the great wheel of national manufactures but it is an important one, as it is in the multiplicity of the minor manufactures that a country or city is made strong rather than by concentration of all of its help and its interests upon one single line of manufacture whereby an accident of trade or the advances of the competition might create a serious injury to the business and to those interested in it as earners.

We believe that the smaller manufacturer has your interest and we are only one of a very great many, and we appeal to you for free crude material in the process of our manufacture.

We are perfectly willing to meet any competition on the manufactured product. Canada offers a large and growing market; it would be impossible to take advantage of rebates of duty into Canada, under their "dumping" clause, and the business could be ruined.

We hope this will meet your favorable consideration; and, in addition, we want to call your attention particularly to the fact that the woman who goes out and buys a little 5-cent tumbler of mustard containing 8 ounces which lasts her for two or three days is not going to be content with one that will cost her a higher price, because as the cost of the material increases that is contained in the package so also must the cost of the container decrease in proportion in order to produce the same pro rata cost of the finished article, which is, in this instance, the mustard in its container ready to be handed to the consumer.

There are retail grocers in this city that sell from 5 to 10 dozen of these tumblers containing 8 ounces, every week to their small trade.

We write this to give you an idea of the enormous consumption and the enormous number of people that this little interest affects. We sincerely hope that our letter may have sufficient interest for you to read it and to accept it as a faithful presentation of the facts as the writer sees them, and that it may have not only your favorable consideration, but that, as in the last bill that was proposed a year ago, mustard seed may remain as it has, upon the free list.

Very truly, yours,

GEO. J. FRENCH, *President.*

PARAGRAPH 669.

Sheep dip.

PARAGRAPH 670.

Shotgun barrels, in single tubes, forged, rough bored.

SHOTGUN BARRELS.**BRIEF SUBMITTED BY J. G. RIGA, SPRINGFIELD, MASS.**

SPRINGFIELD, MASS., *February 15, 1913.*

Hon. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee,

House of Representatives, Washington, D. C.

MY DEAR SIR: Having been informed that it is proposed to take shotgun barrels from the free list and levy a duty thereon of 25 cents per pair of tubes, I desire to earnestly protest against this proposition for several reasons.

PARAGRAPH 670—SHOTGUN BARRELS.

First. Shotgun barrels are not made in this country and they can not be bought, and all the small gun manufacturers are obliged to buy all their barrels abroad and this duty would really work a great hardship to all the double-barrel gun manufacturers, such as the Hunter Arms Co., Fulton, N. Y.; Ithaca Gun Co., Ithaca, N. Y.; Baker Gun & Forging Co., Batavia, N. Y.; Lefever Arms Co., Syracuse, N. Y.; the Crescent Fire Arms Co., and the Hopkins & Allen Arms Co., of Norwich, Conn.; A. H. Fox Gun Co., Philadelphia, Pa.; N. R. Davis & Sons, Assonet, Mass., etc. All the above manufacture double-barrel guns, which is a real sportsman's gun. Winchester Arms Co. and Remington Arms Co. manufacture mostly rifles, and automatic shotguns, single barrels, which are called "game destroyers;" these latter two manufacturers would not be affected by the duties, as their barrels, being single barrels and heavy, are made by themselves.

My second reason is a selfish one, if looking out for one's business interests can be so called. The proposed duty would in a short time prohibit the importation of shotgun barrels, for the reason that the manufacturers would install machinery to make their own barrels in this country rather than submit to a duty of 25 cents per pair, and if the idea of your committee is to get some revenue from the gun barrels imported into this country in levying this duty it will work only long enough to give time for the manufacturers here to install machinery to make their own barrels, for the price of a pair of plain steel barrels which are used most altogether here runs from 95 cents to 79 cents per pair, and you can readily see that the proposed duty would add greatly to the cost of the barrels. So in levying such a high rate of duty on these barrels for revenue only the very fact that the duty is excessive will in a short time defeat the object of the duty, for I repeat it is prohibitive, and all it will do will be to stop all importations of gun barrels into this country, and do no good to anyone, but instead it will ruin my business and increase the cost of manufacturing double-barrel guns in this country.

I sincerely hope you will look into this side of the question and give it due consideration before incorporating in the new tariff law the proposed 25 cents duty per pair of tubes, and after you have considered it well, if you still believe that the shotgun barrels ought to pay a duty, compromise by putting on one somewhat more reasonable, say, about 10 cents per pair, this I believe would bring in more revenue than the higher rate, as it would last longer; that is, the manufacturers in this country would not be so liable to install machinery so soon to make their own barrels, but even with the 10 cents per pair duty, in time it will stop all importations of barrels, and the Government will not derive any revenue from them.

Trusting that you will present this question to your committee and look into it from every point of view, and that you will see your way clear to leave the barrels on the free list, but if this is asking too much, you will at least reduce the proposed duty to about 10 cents per pair, and thereby postpone for a longer time the entire stopping of importation of barrels, I am,

Yours, respectfully,

J. G. RIGA.

PARAGRAPH 671.

Shrimps and other shellfish.

PARAGRAPH 672.

Silk, raw, in skeins reeled from the cocoon, or rereeled, but not wound, doubled, twisted, or advanced in manufacture in any way.

PARAGRAPH 673.

Silk cocoons and silk waste.

PARAGRAPH 674.

Silkworm eggs.

PARAGRAPH 675.

Skeletons and other preparations of anatomy.

PARAGRAPH 676.

Skins of all kinds, raw (except sheepskins with the wool on), and hides not specially provided for in this section.

PARAGRAPH 677—NITRATE OF SODA.**PARAGRAPH 677.**

Soda, nitrate of, or cubic nitrate.

NITRATE OF SODA.**BRIEF BY THE MERRIMAC CHEMICAL CO.**

BOSTON, MASS., *January 31, 1913.*

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: On behalf of the Merrimac Chemical Co. I beg to submit herewith the following brief:

NITRATE OF SODA.

Under the act of 1909 nitrate of soda is entered free of duty. The same is true of all previous tariff acts in the history of this country. It is of the utmost importance that it should remain upon the free list.

Nitrate of soda is not only indispensable to the chemical manufacturers who use it as a basic raw material for many products, particularly in the manufacture of nitric acid, which is itself on the free list, but it is also consumed in large quantities by several other industries. It is one of the three chief sources of nitrogenous fertilizers used so extensively for agricultural purposes. It is also one of the chief elements entering into the manufacture of dynamite.

All the nitrate of soda consumed in this country is imported from Chile, where it is known as Chile saltpeter. Its importance will be seen from the amount imported. The Government statistics for the year ending June 30, 1912, show that there were imported into this country 481,786 tons, at a total valuation of \$15,420,904.

To place a duty on this basic material would simply raise the price to the American consumer of the many finished products of which it is an essential ingredient.

Respectfully submitted.

S. W. WILDER, *President.*

BRIEF BY THE COCHRANE CHEMICAL CO., BOSTON, MASS.

BOSTON, MASS., *January 31, 1913.*

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee,

House of Representatives, Washington, D. C.

DEAR SIR: On behalf of the Cochrane Chemical Co. I beg to submit herewith the following brief:

Nitrate of soda.—Under the act of 1909 nitrate of soda is entered free of duty, and if our data is correct nitrate soda has always been on the free list, where it properly belongs.

Nitrate of soda is not only indispensable to the chemical manufacturers, who use it as a basis of raw material for manufactured products—especially nitric acid, which is itself on the free list—but it is also consumed in large quantities by other manufacturers, chiefly the fertilizer and powder industries.

There is not a pound of nitrate soda produced in this country so far as we know, the entire consumption coming from Chile, where it is known as Chile saltpeter, and by a tax levied upon its production is the chief support of the Chilean Government. Its importance will be seen from the amount imported. The Government statistics for the year ending June 30, 1912, show that there were imported into this country 481,786 tons, at a total valuation of \$15,420,904.

To place a duty on this basic material would mean the raising in price of many of the important chemicals entering into the manufacture of our cotton, wool, iron, and steel industries, etc., and consequently advanced prices on the finished products.

The farmers especially would suffer, as it is they who indirectly, but ultimately, are the largest consumers of nitrate soda, therefore we again urge you that we most earnestly believe that any change in the present laws regarding nitrate soda would work a very serious injury to the interest of this country.

Yours, very truly,

COCHRANE CHEMICAL CO.,
LINDSLEY LORING, *Treasurer.*

PARAGRAPH 679—SPICES.

PARAGRAPH 678.

Specimens of natural history, botany, and mineralogy, when imported for scientific public collections, and not for sale.

PARAGRAPH 679.

Spices: Cassia, cassia vera, and cassia buds; cinnamon and chips of; cloves and clove stems; mace; nutmegs; pepper, black or white, and pimento; all the foregoing when unground; ginger root, unground and not preserved or candied.

SPICES.

STATEMENT OF W. J. GIBSON, ON THE SUBJECT OF SPICES.

Mr. GIBSON. Mr. Chairman, and gentlemen of the committee, I appear to advocate a duty on unground spices, for the reason that they are luxuries, and so long as we have duties on imports for the purpose of raising revenue for the support of the Government, there ought to be a duty on spices, unground, that being the condition in which they are almost entirely imported.

The spices to which I particularly refer are those included in paragraph 679 of the present tariff act, on the free list. They are: Cassia, cassia vera, and cassia buds; cinnamon and chips of; cloves and clove stems; nutmegs, pepper, black or white, and pimento, all the foregoing when unground; ginger root, unground, and not preserved or candied.

Those are the spices on the free list, and they form nearly the whole of the spices which are imported, as they are imported in no other condition than in the unground condition.

The spices which are on the dutiable list in paragraph 298 are mustard, ground or prepared—mustard is hardly a spice in the strict acceptation of the word—which is dutiable if prepared in bottles or otherwise, at 10 cents per pound; capsicum or red pepper, whether ground or unground, 2½ cents per pound; sage, 1 cent per pound. The balance of that dutiable paragraph is "Spices not specially provided for in this section, 3 cents per pound." That is very misleading, but it means that that applies only to ground spices or spices in their ground condition.

To show you that it is simply absurd to put such a clause as that in the tariff, all the revenue derived under that provision of 3 cents a pound for spices not specially provided for in the year 1911 amounted to \$1,016, while there were 54,000,000 pounds of the other spices which I have named which were imported and came in free.

The policy of this Government has always been, from the very beginning, that luxuries should pay high rates of duty. Our forefathers at the beginning of the Government said that they did not want to encourage the people in extravagant living—or the high cost of living—and where they only put 5 per cent duty on manufactured articles, such as woolen cloth, cotton cloth, they put a very high rate of duty upon spices, and they followed out that principle from the beginning of the Government down until 1883, when the policy of protection came in and spices were put upon the free list. Now, to give you an idea of the history of this matter, in the tariff act of March 7, 1804, it imposed a duty on cinnamon and cloves of 20 cents a pound, nutmegs of 50 cents a pound, and mace of \$1.25,

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and under the tariff act of April 27, 1816, nutmegs paid a duty of 60 cents a pound, cinnamon and cloves 25 cents, and mace \$1. These duties were put on these spices unground, because no revenue would be derived from them if imported ground.

In the tariff act of June 30, 1864, these spices, all the ones that I have named, in the unground condition, had a duty on them from 15 cents up to 40 cents. I won't read that over; it is not necessary, as I submitted my brief. That rate of duty continued, according to my recollection, down until 1882, when, as I say, the idea went into operation of not putting any duty on noncompetitive articles, so they went upon the free list, except cayenne pepper, which was raised to some little extent in Louisiana, and the duty on that was 2½ cents a pound. There was also some mace produced, and mustard. Those are the only three articles that paid any duty; the others came in free.

I present this matter as revenue measure. When this question was before this committee, before the act of 1909, when the gentlemen in the minority were presiding, I presented the same question to the chairman of the committee in practically the same brief that I have here to-day. I think the committee recommended a duty of 30 per cent ad valorem on these spices. I think that bill passed the House and went to the Senate, and the Senate struck out that clause and substituted for it a clause which had been in the act of 1897, and also in the acts of 1890 and 1883. So I think the minority of this committee were evidently with me then on this duty on the spices that I have named. I assume that the Democratic members of this committee can not well take a lower position on this matter of these spices. I think they ought to have a duty of at least 50 per cent. I observe from reading the proposed bill that the duty proposed by this committee on these spices is from 15 to 20 per cent.

With all due respect to you, gentlemen, I think you are making an error in regard to a duty on luxuries. Here is an article that had its origin in the south of Italy, along the Mediterranean shores. The people who indulged in those articles at that time were called Sybarites. There was a city called Sybaritis, where the people were voluptuous and extravagant, and they had recourse to the East in order to get these spices. Spices are used, as you know, to make things more agreeable. They were considered effeminate. They were so considered by our forefathers, and they were not used by the general masses of the people. They do not produce the virile qualities, nor have they any place in that category. I presume you have briefs before you saying that these spices are largely used almost as necessities. Now, so far as I have been able to investigate this matter, these spices are used largely, most largely, in their natural state; less than half of them are ground. A large quantity of them are used in barrooms. You will find cinnamon, cloves, and pimento in most every large barroom in the country. They are used in the household in the whole condition.

As I say, of these spices about 60,000,000 pounds were imported in 1912, and that is just a little over half a pound per capita. Then they are used for perfumes. Oil is made from them, which is used for perfumed soap. There is the oil of cassia, the oil of cloves, and so on, and they are thoroughly identified with luxuries in every sense of the word. They are of no substantial nutriment. They are not produced

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in this country and could never be. I do not believe they could even be hothoused, so they are a subject for this committee to consider as a means of raising revenue.

The CHAIRMAN. There can be no production of them in this country because they can not be raised here?

Mr. GIBSON. They can not be produced here.

The committee proposes a duty of 15 to 20 per cent. I wish to ask you gentlemen in all fairness, and respectfully, on this subject, how are you going to say to the people "We have put a duty of 15 or 20 per cent on spices, which are luxuries, and we have put a higher duty on the absolute necessities of life, on your clothing?" That presents a category, because we may have to meet that question some time, and it will be an ugly question to meet. We have the assent of the minority of the committee to almost double the duty which you gentlemen have seen fit tentatively to put into the bill that you have proposed.

The grinders want these spices to come in free. We all know that spices used to be ground in the family. This matter of grinding spices is not a manufacture. In the State of New York it has been held that the grinding of coffee is not a manufacture; that it does not change the character or the name of the substance. These spices, when ground, do not cease to be spices; they are simply ground spices. You have coffee on the free list, and the roasters of coffee and the grinders of coffee may just as well come in and say to you, "We want a protective duty on roasted coffee and on ground coffee." I do not know that they have ever done it. I know that it certainly never has been granted.

The only reason that the grinders want the duty on ground spices is that it enables them to put a higher price on that particular condition of spices and prevent any from coming in. I do not fancy there is any loss because we have ground coffee, and there is no ground coffee imported. Ground coffee is free. The customs authorities have held that ground coffee is coffee, and coffee is on the free list, and it includes ground coffee.

So I present this question to you gentlemen, not only on these particular spices, but I offer these because they are more forcibly illustrative of the necessity, to my mind, of the duty. If you put 5 cents a pound duty on these spices, you get a revenue that goes directly into the Government of over \$3,000,000. If you want to put on the duty that you propose in your tentative bill here, you would not get a duty of more than about \$600,000.

The CHAIRMAN. If we were to put a higher rate of duty than proposed on these spices, would it not have a tendency to cut off importations and thereby lessen the revenue?

Mr. GIBSON. No; and I will tell you why. I should have gone further and said the opposition to these spices being dutiable comes from the grocers and the grinders. They are not expensive at wholesale. They run about 5 cents a pound up to about 18 cents, the highest. I think that nutmegs are probably now about the highest. They are not very far apart in their price. You go into a drug store or you go into a grocery store—these spices are consumed in small quantities—you ask for an ounce of spices, of cinnamon, or cassia, or cloves, and they charge you 10 cents an ounce for it. That

PARAGRAPH 679—SPICES.

is at the rate of \$1.60 a pound, an article which probably does not cost them more than 15 or 20 cents a pound. There is an enormous profit on it, and that is where the grocer makes a large part of his profit. I understand the grocer claims he makes his expenses out of his spices and his coffee.

Those are things for which large prices can be charged. Of course, I understand that any increase in the price probably would reach the consumer at some point, but I doubt that if you were to put a duty of 5 cents a pound on these spices it would increase the price to the consumer at all; and it would put a very considerable amount of revenue into the hands of the Government.

The CHAIRMAN. You do not think it would stop importation?

Mr. GIBSON. No, sir; I do not. The spices are bought by the people, as a rule, who can afford to pay for them, and so it probably would not affect them at all.

If you will pardon me for saying so, I think your committee is making a great mistake in putting luxuries so low. I think all luxuries ought to bear a high rate of duty. By a high rate I mean at least 50 per cent, because every regard ought to be paid to the man who has to struggle to get the absolute necessities of life, and they do not need these.

The farm hand in the country never knows the character of a spice. And it is people in this condition, men raising families, with four, five, or more children to educate, and doing it upon three or four hundred dollars or less a year. Everything that the Government can do in the way of lessening their burden ought to be done, not only as to these spices, but with the others. Take oils that are on the free list, like attar of roses, and rosemary, a great lot of them, which I think are absolutely luxuries, and that ought to pay a high rate of duty.

It had been the policy of this Government to do that for 60 years prior to the war; it was a wise policy, a frugal policy, and it ought to be followed. I have appended to my memoranda a list of different spices.

There is one thing on this same schedule that I think ought to go on the free list, and that is cod liver oil for medicinal purposes. My reason for asking this committee to put cod-liver oil for medicinal purposes on the free list is that it is a medicine, a really nutritive food for consumptives and rickety children. While you might put cod-liver oil as a product on the dutiable list, you could say, "Cod-liver oil not specially provided for, 12 cents a gallon"; then you could on the free list put "Cod-liver oil for medicinal purposes." It will be a great boon to the poor and their families. It is the one medicine—and I have pretty correct information on the subject—that supplies tissue and helps to build up rickety and decrepit children; it is also, as I say, a great boon to consumptives. While the duty as proposed is not very high, yet the very moment that you put a duty on an article it adds to the cost of its getting to the people who need it.

I thank you for your attention.

Mr. PAYNE. You advocate putting a duty on these spices because they are articles of luxury and not necessity?

Mr. GIBSON. Yes, sir.

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Mr. PAYNE. And you class them with liquor. I should hardly agree with you on that classification. They are nearer the line of necessities than liquor.

Mr. GIBSON. Yes.

Mr. PAYNE. And they are not very far differentiated from coffee. A man could get along without coffee, although it appears on most breakfast tables. These spices appear also on most of the tables in America. Would you advocate putting a duty on coffee?

Mr. GIBSON. I would not advocate it now. But I think so long as we have duties it would be a good duty to put on.

Mr. PAYNE. I want to say to you that we put this duty on because we were looking around for revenue.

Mr. GIBSON. Yes.

Mr. PAYNE. We had made such severe cuts in the tariff, we had put so many articles on the free list that were paying in high revenues, that we were looking around for revenue.

Mr. GIBSON. I appreciate that.

Mr. PAYNE. And we struck spices and put them on. The bill went to the Senate with that provision in. Afterwards we incorporated a corporation tax.

Mr. GIBSON. Yes.

Mr. PAYNE. Which has brought in a revenue of \$27,000,000 per annum or more, and we found we did not need this duty on spices. In the meantime there was a good deal of complaint from consumers in the country that it was going to raise the price of their spices, and for that reason, and also for the reason I had myself, I agreed to nearly every amendment in the Senate which reduced duties in the original bill—I was favorable to taking off these duties. And we did take them off.

Mr. HILL. May I ask what your business is?

Mr. GIBSON. I am a lawyer. I have always been interested in tariff questions. I came before this committee last time.

Mr. NEEDHAM. I wish everybody was interested.

Mr. HILL. Do you not think this would add directly and specifically to the cost of living?

Mr. GIBSON. No, sir.

Mr. HILL. You find these spices, certainly pepper, on every table at which you sit down. These spices are sold in every grocery store, all over the United States.

Mr. GIBSON. Yes.

Mr. HILL. The bulk of them. They are a part of the regular stock of a grocery store.

Mr. GIBSON. Yes.

Mr. HILL. And they are sold to every householder, practically, in the United States.

Mr. GIBSON. Yes; so is tobacco, and many other things.

Mr. HILL. Would it not be in direct violation of the party pledge to reduce the cost of living by taking these off the free list and treating them as luxuries?

Mr. GIBSON. I do not think so, for the reasons I have stated. You spoke of coffee.

Mr. HILL. Yes, and tea.

PARAGRAPH 679—SPICES.

Mr. GIBSON. Coffee is not a necessity. I dare say people would be better without it.

Mr. HILL. And better without tea.

Mr. GIBSON. And perhaps better without tea. I suppose they are less injurious, probably, than many other things that we do indulge in—I mean coffee and tea. But they would be very proper subjects, I think, for duty, because in a hard stress a family could do without coffee, and they could do without tea, when they are reduced. And so I think of spices. If you look at the history of them, you will find they had the origin of their use in the Sybaritic condition of the people in the south of Italy, and they were identified entirely with voluptuous and extravagant living. While, of course, that has more or less faded away, still they are absolute unnecessaries. No mother gives them to her child; nobody takes to them as a matter of living.

You take salt. I see in one of the papers submitted here it was said they were to be classified as salt. Not at all. Salt is an absolute necessity. You go in the far West and approach the Indians, the first thing they ask you for is salt.

Mr. HILL. It is a luxury to the Indians.

Mr. GIBSON. Oh, no; they want it as a necessary, and they feel the need of it.

Mr. HILL. And you want pepper on an egg when you eat it.

Mr. GIBSON. No; I do not think I do.

Mr. HILL. Most people do.

Mr. GIBSON. Well, it is around; they can take it.

Mr. PAYNE. It is in the same class as tea. I suppose you are aware that every other country puts a duty on tea?

Mr. GIBSON. Yes.

Mr. PAYNE. Every other country except the United States.

Mr. GIBSON. Yes. I was going to say as to salt, on the other hand, you will find every considerate farmer has it in his field for his cattle. All the bovine animals want it. It is a means used to entrap the deer. In New York they have a law to prevent that way of enticing deer, to be killed. So salt is not in the same category.

The spices are household luxuries, and I think they ought to bear a considerably higher duty than it is proposed to put on them. I thank you for your attention.

The CHAIRMAN. Mr. Gibson, we are very glad to hear from you.

MEMORANDA ON SPICES.

32 NASSAU STREET,
New York, January 4, 1918.

To Committee on Ways and Means, House of Representatives:

So long as we are to have duties on imports, for the purpose of raising revenue for the support of the Government and not for protection, there ought to be a duty on spices, unground, that being the condition in which they are imported.

1. The spices particularly referred to are included in paragraph 679 of the free list of the present tariff act, which are imported unground, and which are as follows:

"Par. 679. Cassia, cassia vera, and cassia buds; cinnamon, and chips of; cloves and clove stems; nutmegs, pepper, black or white, and pimento; all the foregoing when unground; ginger root, unground, and not preserved or candied."

2. On the dutiable list, paragraph 298, are the following:

"Par. 298. Mustard, ground or prepared, in bottles or otherwise, 10 cents per pound; capsicum, or red pepper, or cayenne pepper, 2½ cents per pound (whether

PARAGRAPH 679—SPICES.

ground or unground); sage, 1 cent per pound; spices, not specially provided for in this section, 3 cents per pound."

This latter paragraph is somewhat misleading. The ordinary person in reading it would suppose that all the other spices not named in paragraph 298 were dutiable at 3 cents per pound, without regard to their condition, but as all the other spices are specially provided for in paragraph 679 of the free list as exempt from duty when imported in an unground condition, they are all entitled to free entry, unless they should be imported in a ground condition, which is not done, for the reason that there is a high duty on them in this form, and also if imported ground they would lose their strength, flavor, and fragrance sooner when ground than unground, which, as a rule, is their chief value, and besides, we can do grinding as cheap, or cheaper, in this country than can be done anywhere else in the world.

3. Capsicum, or red pepper, or cayenne pepper unground and unprepared, is made dutiable at 2½ cents a pound, because there is a small quantity of it raised and prepared in the State of Louisiana, although there were 5,242,284 pounds imported in 1911, valued at \$557,760, and paid a duty of \$131,057. Why should red pepper pay a duty and black and white be free? There is also a duty of 1 cent a pound on sage in any condition, as small quantities of it are raised in this country.

So that the duty on spices, so far as there is any duty at all on them in the condition in which they are imported is restricted to these two and such duty is intended to be protective and not for revenue.

4. It will be observed that "all other spices" that are dutiable under paragraph 298, in 1911, only amounted to 33,912 pounds, and in value to \$5,204, on which the duty was \$1,017.

5. It will be remembered that the tariff bill (H. R. 1438), as it passed the House in 1909, made all these spices dutiable, both those now on the free list and those on the dutiable list, in paragraph 294, in their unground condition, but the whole paragraph (294) of the House bill was stricken out in the Senate and paragraph 297 of the tariff act of 1897 was substituted as an amendment, and all the other spices except the two above mentioned were put on the free list in the unground condition by amendment, the same as they had been in the Dingley Act of 1897 and the McKinley Act of 1890, and the act of 1883.

6. None of these spices are produced in this country, except the two above named. They are all produced in tropical countries, and all the duties collected from them would go into the revenue for the support of the Government.

7. These spices are luxuries. They are not necessities. No doubt every one would be better off without them. They might properly be put in the same class with wines, liquors, and tobacco for dutiable purposes, as they were some 60 years ago; and, in fact, cloves, cinnamon, and pimento or allspice are used in nearly every drinking saloon in the country. They are used only in small quantities of each. A well-to-do family would not likely consume more than a few ounces of any one of them during a year. They are, as a rule, purchased by the consumer from the retail grocer by the ounce, and are commonly sold for from 5 to 10 cents an ounce—at the rate of 80 cents a pound and upward—from 4 to 10 times their cost, as can be readily ascertained upon inquiry at any retail grocery. There does not seem to be any regular price for them at retail. They are sold without regard to what they cost, and would without doubt be sold at the same price to the consumer if a duty of 5 or 10 cents a pound was put on them. They are in no sense in the same category with salt. This is an absolute necessity. The first thing the Indian asks the white man for is salt. The want of it lures animals to destruction, nevertheless salt is dutiable.

8. These spices were dutiable under all the tariff acts, in their unground condition, from the beginning of the Government down to 1883, when they were put on the free list. In the tariff act of June 30, 1864, they were dutiable in the unground and ground state, as follows:

Spices.	Un-ground.	Ground.
	Per lb.	Per lb.
Pimento.....	\$0.15	\$0.18
Cassia.....	.20	.25
Mace.....	.40	.....
Cloves.....	.20	.....
Cinnamon.....	.30	.....
Nutmegs.....	.50	.....
Pepper, black, white, red or cayenne.....	.15	.....

PARAGRAPH 679—SPICES.

The above rates continued down to 1872, and, I think, to 1883.

Under some of the former tariffs the duties were much higher. The tariff act of March 7, 1804, imposed a duty on cinnamon and cloves of 20 cents a pound, nutmegs of 50 cents, and mace of \$1.25, and under the tariff act of April 27, 1816, nutmegs paid a duty of 60 cents a pound, cinnamon and cloves of 25 cents, and mace \$1. These duties were on these spices unground. Up to the year 1883 the Government received a large revenue from the above-named spices unground. They were regarded as luxuries, and proper subjects for a high duty, until the protective policy dominated the tariff. It had always been the policy of this country from its beginning to put a high duty on spices for the reason that they were luxuries, and to discourage extravagant living.

9. The following is a statement of the amount of these spices imported in the ground and unground condition, with their value, for the fiscal year ending June 30, 1911, as given by the Bureau of Statistics of the Department of Commerce and Labor:

Spices, unground.	Rates of duty.	Quantities.	Values.	Duties.
Cassia buds.....pounds.	Free.....	105,982.00	\$11,616.00	None.
Cassia and cassia vera.....do.	Free.....	6,646,787.00	522,228.00	None.
Cinnamon and chips of.....do.	Free.....	1,147,428.78	100,640.00	None.
Cloves.....do.	Free.....	4,088,527.60	533,152.00	None.
Clove stems.....do.	Free.....	6,481.00	905.00	None.
Ginger root, not preserved or candied, pounds.	Free.....	7,363,088.00	582,161.00	None.
Mace.....pounds.	Free.....	562,626.00	193,879.00	None.
Nutmegs.....do.	Free.....	2,392,251.00	210,409.00	None.
Pepper, black or white.....do.	Free.....	23,193,416.00	1,697,027.00	None.
Pimento.....do.	Free.....	5,659,208.00	155,542.00	None.
Total spices, unground.....do.		51,165,794.78	4,008,559.00	None.
Capsicum, or red pepper or cayenne pepper.....pounds.	2½ cents per pound.	5,242,284.92	557,759.65	\$131,057.29
Mustard, ground or prepared, in bottles or otherwise, pounds.	10 cents per pound.	1,360,080.00	355,561.00	136,008.01
Sage.....pounds.	1 cent per pound.	1,278,840.38	22,578.61	12,788.41
All other.....pounds.	3 cents per pound.	33,912.63	5,204.81	1,017.42
Total spices.....do.	Free.....	51,165,794.78	4,008,559.00	.....
	Dutiable.....	7,915,117.96	941,104.07	280,871.13
		59,080,912.74	4,949,663.07	.....

There were 63,116,598 pounds imported in 1912, of which only 9,887,243 pounds were dutiable. At 5 cents a pound, these spices would yield a revenue of about \$3,155,829.

10. About all of the opposition to these spices being made dutiable in their unground condition would come from the grocers, who charge the consumer from four to ten times what they cost them, and from the grinders and makers of perfumery and fancy soaps. Grinding spices is not worthy the name of manufacture. It was held in the State of New York, for the purposes of taxation, that grinding coffee and glue was not manufacturing. The grinders claim that if the duty on spices was the same, whether ground or unground, there would be considerable quantities imported in the ground state, as there is some loss in weight in grinding. To obviate that there might be a duty of 1 or 2 cents a pound more on the ground than on the unground.

11. There are oils made from all these spices except pepper and mustard. The oils of cassia, of cinnamon, and mace are on the free list (paragraph 639). The oils of cloves, of pimento or allspice, and of nutmegs are not mentioned in the tariff. These oils are largely used for making perfumery and toilet and fancy soaps, which also are luxuries and ought properly to have a pretty high duty placed on them, at least commensurate with the duty on spices unground. There are also other oils in the said paragraph 639, such as the attar of roses, rosemary, bergamot, etc., that are luxuries and ought to be on the dutiable list.

THE DUTY SHOULD BE SPECIFIED AND BY THE POUND.

12. The duty on these spices has, as a rule, heretofore been assessed by the pound, as that is the unit by which they are bought and sold, and they are dutiable in other countries by weight. If they are made dutiable by an ad valorem rate they will have to be appraised and their value ascertained in that way, and as they come from

PARAGRAPH 679—SPICES.

tropical countries and are gathered over the country, and many of them are shipped from small ports where there is no regular market price and are bought at various prices, it would be a constant source of annoyance, both to the customs officials and to the importers, to fix a fair and satisfactory value by appraisement, and a specific duty would have the effect of keeping out the inferior qualities of these spices, for if the duty is ad valorem, of course the poor qualities would come in for a less duty than the good spices.

13. Putting a uniform specific duty on these spices would not be unfair, as there is but a small difference in their value, and they are used substantially for the same purposes, and there is very little, if any, difference in the price at which the retail dealers sell them to the consumer.

It is respectfully suggested to the Committee on Ways and Means that the following proposed paragraph be adopted to cover all spices:

"Par. —. Spices: Cassia vera and cassia buds, cinnamon and chips of, cloves and clove stems, mace, nutmegs, sage, pimento or allspice, all the foregoing unground, five cents per pound, ground, six cents per pound; capsicum or red pepper or cayenne pepper, black or white pepper, and mustard seed, unground, four cents per pound; capsicum or red pepper, or cayenne pepper, black or white pepper, ground or prepared, and paprika, six cents per pound; mustard, ground or prepared in bottles or otherwise, eight cents per pound; ginger root, unground, four cents per pound; ground or preserved or candied, eight cents per pound."

Respectfully submitted.

W. J. GIBSON.

TESTIMONY OF E. W. DURKEE.

The witness was duly sworn by the chairman.

Mr. DURKEE. Mr. Chairman and gentlemen of the committee, subsequent to the hearing on January 20, at which I appeared as one of a committee from the American Spice Trade Association, I filed a further statement with the members of this committee; this statement was made as if in the presence of the committee under oath.

There is not much that I can add to this statement except to repeat that the spice association urges the retention of whole spices on the free list on the ground that they are actual necessities of life at this time and distinctly not luxuries; that on the contrary they contribute to cheaper cost of living by making cheaper foods palatable; that a duty on spices would add to the cost of living, which high cost of living, it has been promised, would be reduced under the new tariff.

That a duty on the landed weight of whole spices by reason of shrinkage, loss in grinding, and in putting up, would be greater than the rate of duty by whatever the percentage of shrinkage and loss may be, and this loss is in some cases considerable, and this would still further add to the price paid by the consumer.

That the price paid by the consumer is not due to excessive profit, but largely to labor cost.

I tried to show as well that while 3 cents per pound would prohibit the importation of some spices in bulk it does not prohibit the importation of all spices even in bulk, and that there is actually some spice in small packages imported under this rate of duty, and that ground mustard even at 10 cents per pound duty shows an average increase in importation.

Under the provisions of the bill as passed last spring spices made dutiable at 1 cent per pound would yield \$488,363.42; cloves, at 2 cents per pound, would yield \$128,287.26; pimento, at three-fourths of a cent per pound, would yield \$25,834.99; sage, at one-half cent per pound, would yield \$7,590.62; mace, at 8 cents per pound, would

PARAGRAPH 679—SPICES.

yield \$32,268.40; mustard, at 6 cents per pound, would yield \$84,003.97; all other, at 20 per cent ad valorem, would yield \$2,114.40; total, \$768,462.06.

The spices dutiable under the present tariff yielded \$318,209.33; the increase under the bill of last spring would be \$450,252.73.

This estimate is based on the quantities imported for the year ending June 30, 1912.

Deducting from the amount raised under the provisions of the bill of last spring the cost of collection, the net revenue, would not be great, while the increased cost to the consumer occasioned solely by this duty would be an everyday cause of complaint from every person in the country.

Besides, if there was the same rate of duty as this bill provides on both whole and ground spices, the bill passed last spring would practically destroy the spice-grinding industry in this country and injure all classes of labor employed in this industry, and the only increased revenue derived under this bill would be an increase in duties of \$450,000. Is it worth while to do this for such a sum?

If the policy of this committee is not to impose prohibitive duties, the spice trade would prefer free whole spices—their raw material—and a lessened duty on ground spices.

The duties on spices by bill passed last spring would be as follows:

Spices dutiable by—	Pounds.	Duty.	Value.
1 cent per pound:			
Cassia buds.....	26,667.00	.....	\$3,418.00
Cassia, cassia vera.....	6,880,723.00	.....	521,104.00
Cinnamon, and chips of.....	1,013,348.12	.....	109,215.00
Ginger root, not preserved.....	5,944,564.00	.....	368,193.00
Nutmegs.....	2,097,422.00	.....	304,757.00
Pepper, black or white.....	26,450,845.00	.....	2,617,440.00
Capsicum.....	6,422,772.50	.....	597,632.11
Total.....	48,836,341.62	848,363.4162	4,521,759.11
2 cents per pound, cloves.....	6,414,363.00	128,287.26	713,230.00
Three-fourths cent per pound, pimento.....	3,444,655.00	25,834.2875	137,246.00
One-half cent per pound, sage.....	1,518,124.32	7,590.6216	24,495.50
8 cents per pound, mace.....	403,355.00	32,268.40	168,086.00
6 cents per pound, mustard.....	1,400,049.50	84,002.97	372,323.00
20 per cent ad valorem, all other.....	81,790.37	2,114.40	10,572.00
Total.....		768,462.0553	.....

Summary.

Spices at 1 cent per pound duty.....	\$488,363.42
Spices at 2 cents per pound duty.....	128,287.26
Spices at $\frac{3}{4}$ cent per pound duty.....	25,834.99
Spices at $\frac{1}{2}$ cent per pound duty.....	7,590.62
Spices at 8 cents per pound duty.....	32,268.40
Spices at 6 cents per pound duty.....	84,002.97
All other at 20 per cent ad valorem.....	2,114.40
Total.....	768,462.06
Duties under present tariff.....	318,209.33
Increase under rates, Schedule A.....	450,252.73

PARAGRAPH 679—SPICES.

Imports of spice, one year, ending June 30, 1912.

FREE SPICES.

	Pounds.	Value.
Cassia buds.....	26, 667	\$3, 418
Cassia, cassia vera.....	6, 880, 723	521, 104
Cinnamon, and chips of.....	1, 013, 348. 12	109, 215
Cloves.....	6, 414, 363	713, 230
Ginger root, not preserved.....	5, 944, 564	368, 193
Mace.....	403, 355	168, 086
Clove stems.....		
Nutmegs.....	2, 097, 422	304, 757
Pepper, black or white.....	26, 450, 845	2, 617, 440
Pimento.....	3, 444, 665	137, 246
Total.....	52, 725, 952. 12	4, 942, 689

DUTIABLE SPICES.

	Pounds.	Value.	Duty.
Capsicum.....	6, 422, 772. 50	\$597, 632. 11	\$160, 569. 41
Mustard.....	1, 400, 049. 50	372, 323. 00	140, 004. 95
Sage.....	1, 518, 124. 32	24, 495. 50	15, 181. 25
All others.....	81, 790. 37	10, 572. 00	2, 453. 72
Total.....	9, 422, 736. 69	1, 005, 022. 61	318, 209. 33

	Pounds.	Value.
Free spices.....	52, 725, 952. 12	\$4, 942, 689. 00
Dutiable spices.....	9, 422, 736. 69	1, 005, 022. 61
Total.....	62, 148, 688. 81	5, 947, 711. 61

Above figures are from quarterly statement imports entered for consumption.

The Monthly Summary of Commerce and Labor gives total spices for year ending June 30, 1912:

	Pounds.	Value.
Free spices.....	53, 229, 355	\$4, 946, 651
Dutiable spices.....	9, 887, 243	1, 027, 519
Total.....	63, 116, 598	5, 974, 170

The CHAIRMAN. Of course, you understand we levy this duty purely for a revenue; it could not be a protective duty because there are no spices grown in this country. At what price does a manufacturer or grinder of spices sell them to the middleman?

Mr. DURKEE. The spices to-day are sold in small packages. The profit of the manufacturer, as the statement which I filed with the committee shows in detail, is about 10 per cent; less than 10 per cent; a little over 9 per cent.

The CHAIRMAN. You would have to carry that tax down to the middleman, of course?

Mr. DURKEE. We would have to increase our price.

The CHAIRMAN. That is what I mean; you would put it on. Now, take an ordinary package of spices. What is a typical package?

PARAGRAPH 679—SPICES.

You can tell me better than I can state one. Would a package of cloves be a typical package, or what would you call a typical illustration?

Mr. DURKEE. Pepper, I would say, is the spice that is in greatest use.

The CHAIRMAN. At what price do you sell an ordinary package of pepper?

Mr. DURKEE. We sell it at 36 cents a dozen, that is, 3 cents for a can holding an ounce and a half.

The CHAIRMAN. That is, 3 cents apiece?

Mr. DURKEE. Yes, sir.

The CHAIRMAN. What does the middleman sell that to the consumer for?

Mr. DURKEE. He sells it at 45 cents a dozen, and the retailer sells it for 60 cents a dozen, and the consumer pays 5 cents a can.

The CHAIRMAN. There is a difference between your price and what the consumer pays of from between 36 cents and 60 cents?

Mr. DURKEE. Yes, sir. But that difference is not absorbed by the seller. Out of that difference has to be paid the freight and the cost of doing business, leaving a profit to the wholesaler of about 10 per cent, and the profit to the retailer, the gross profit, is 33½ per cent, out of which comes his cost of doing business.

The CHAIRMAN. He gets 33½ per cent and he sells a package at 5 cents?

Mr. DURKEE. Yes.

The CHAIRMAN. And he would have to continue to sell that package at 5 cents?

Mr. DURKEE. No; I do not think he could continue to sell it at that price. He would either have to pay more for the same weight of package or would get a lesser quantity in the package.

The CHAIRMAN. What did you say the imported price was?

Mr. DURKEE. The cost to the manufacturer?

The CHAIRMAN. No; I mean the imported price, where a tax would be levied.

Mr. DURKEE. The cost of whole pepper, for instance, is about 10 cents a pound—10½ cents.

The CHAIRMAN. What would be the cost at the customhouse for the importation of the pepper; that is, one of these 5-cent packages?

Mr. DURKEE. Well, there being an ounce and a half to a package, a dozen would hold a pound and a quarter.

The CHAIRMAN. And what is the price per pound?

Mr. DURKEE. Ten cents; that would be, say, 12½ cents, at to-day's market, for the contents of a package. But the cost of putting the stuff in the package, grinding, labor charges, and so forth, is 19 cents and a fraction.

The CHAIRMAN. But the tax, carried down to the retailer, would not amount to more than about one-fourth of a cent, or less than one-fourth of a cent, on a package of pepper, would it? It would amount to less than that?

Mr. DURKEE. I think it would not amount to very much, sir.

The CHAIRMAN. Therefore the consumer would not pay it?

Mr. DURKEE. Well, for instance, the contents of a dozen packages would be something like twelve sixty-five. These goods are sold on

PARAGRAPH 679—SPICES.

a percentage basis, and, for instance, if the whole pepper is worth 10 cents, and you put a duty of 1 cent a pound on it you are taxing it 10 per cent.

The CHAIRMAN. I know, but that would be 1 cent on a pound. The tax would amount to 1 cent on a pound, and you sell it in packages of how many ounces?

Mr. DURKEE. Well, this particular package was an ounce and a half.

The CHAIRMAN. One cent a pound on an ounce and a half would make that tax, if carried down to the final package that goes to the consumer, less than one-sixth of a cent. I can not see how that would—

Mr. DURKEE (interposing). One cent a pound on 10 cents is 10 per cent.

The CHAIRMAN. If we put a tax on it it would be 10 per cent or it would be 1 cent a pound, and you sell to the ultimate consumer in this package that you speak of, an ounce and a half, and an ounce and a half would be about one-tenth of a pound, and one-tenth of a pound would be, the tax being a cent a pound, about one-tenth of a cent that would arrive to the ultimate consumer, if you did not increase your price?

Mr. DURKEE. There would be an additional cost to the grinder, added to the 1 cent a pound, which he would pay on the landed weight. If he paid 1 cent a pound on the landed weight he would not sell—there would be a shrinkage in the warehouse; there is a shrinkage in grinding, there is a shrinkage in packing into small packages, and the price would be increased by the difference as figured out in percentage, which would be added to the initial duty of 1 cent.

The CHAIRMAN. It would not be double, would it?

Mr. DURKEE. No, sir.

The CHAIRMAN. Well, assuming that it would be double, it would only be one-fifth of a cent per package that would go to the ultimate consumer?

Mr. DURKEE. Well, the margin at the present moment to the manufacturer is less than 10 per cent. Now, any increased cost must be added to the selling price, and the profits all the way through are percentage profits, and the final consumer would pay more than would be apparent from such a small advance, and it would be paid by everybody. Then there would be a great source of complaint, because spices are necessities, not luxuries, and I think the expectation of everyone is that necessities of every-day life are not to be increased, because—

The CHAIRMAN (interposing). In fact, are not a great many of these spices not necessities but used for manufacturing purposes? Is not a large percentage of the imports used in the manufacture of things that are not necessities? Is that not so?

Mr. DURKEE. No, sir; I do not think there is any sort of spice that could be used for manufacturing purposes that would come under that head. For instance, in making sausages, or mince pies, if you like, the ultimate product is a matter of food.

The CHAIRMAN. Of course, we will give careful consideration to your suggestions, but the committee's idea was that there was a large

PARAGRAPH 679—SPICES.

margin of profit between the price of the manufacturer or importer and the price of the retailer.

Mr. DURKEE. Well, that is a mistake.

The CHAIRMAN. And that there might properly be a tax levied for the purpose of revenue only, in order that whatever goes down to the consumer—

Mr. DURKEE (interposing). It would certainly go to the consumer.

The CHAIRMAN. Well, I am sure you think that way, but I can not conceive how one-fifth of a cent on an ounce and a half package could add anything to the price paid by the consumer.

Mr. DURKEE. It would not be perceptible if the profits were considerable, but the manufacturer makes less than 10 per cent, the jobber would not make over 10 per cent, and the retailer's gross profit is not considerable, and out of that profit he has his expenses of doing business to meet, and those are considerable. He loses a good deal in bad debts, he loses in deferred payments of his bills, and he has his cost of delivery, and all that, to be deducted from his gross profit. So on his spices he is not left a very large profit.

The CHAIRMAN. Are there any other questions, gentlemen?

Mr. HULL. During the hearings a great many manufacturers have contended that the tariff on articles that go into the manufacture of their particular product naturally enhanced the price they were obliged to pay for those articles, to a more or less extent, and, of course, correspondingly increased the cost of manufacture. On the other hand, when they have been asked whether the consumer would get the benefit of a tariff reduction on the products they manufactured they have almost invariably said no, and I have wondered how it is they would get the benefit of a reduction on the articles they use, whereas the consumer, according to their line of reasoning, would not, as a rule, secure any benefits from reductions on the products they manufacture. I suppose they were referring, by implication, at least, to the middleman, so-called, the jobber and the retailer, and I was wondering whether you had any ideas as to the actual effect of a reduction of the tariff on their products.

Mr. DURKEE. Well, spices are, at the present time, free.

Mr. HULL. I understand about spices, but I was asking you generally.

Mr. DURKEE. I think the sharp competition that exists in this country means that a competitor who can produce goods cheaper by reason of any fact, either of a duty or a lower market price, almost instantly varies his price and reduces his prices in accordance with that production. I do not come in contact with the products of other manufacturers very much, but I remember that a number of years ago we sold a great deal of chocolate and from time to time there were marked changes in the price. At times the manufacturers would put up their price and then at times they would reduce the price. Sometimes the reduction was made not merely on purchases that would be made at that time but on existing stock in the hands of a distributor or jobber, and the very next day, or the very instant that reduction was made on his stock he would send telegrams to his salesmen and try to be the first to make the reduction to his customers.

Mr. HULL. You think, then, that domestic competition is entirely sufficient to keep the prices on a legitimate level?

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Mr. DURKEE. As far as I know anything about the trade, that is absolutely so. It is illustrated again in this way in spices: Take whole spices. If there be a decline in Holland or in London, cable advices come that pepper is lower in Holland or in London—and the larger number of these spices come from Holland and London—and almost instantly some one will take advantage of that to make the point to his customers of being a cheap seller, and he will lower his prices to get the trade.

Mr. HULL. You are talking about spices?

Mr. DURKEE. Yes, sir; I do not know much about anything else. But it seems to me that the analogy would exist as to other articles; in other words, any articles where competition is very close.

Mr. HULL. You do not have any particular knowledge as to any other lines of business?

Mr. DURKEE. No, sir; I have not.

Mr. HULL. You do insist, though, that where a reduction is made by the manufacturer in your line, that it is carried on to the consumer and not held up by the jobber or retailer?

Mr. DURKEE. No, sir; it is not. In a great many cases the goods are trade-mark goods, and I think every manufacturer wants to prevent his trade-mark goods being sold at too high a price. For instance, an article could be kept from sale if a trade-mark article, for instance, was sold at an exorbitant price by the retailer, and the manufacturer of that trade-mark article would suffer, because the price would be so high that other goods would take its place. He wants his goods to go out to the consumers as cheaply as possible. The cheaper a standard article—a good article sold under a trade-mark, called for under that trade-mark—is sold, the better for the business of the manufacturer.

Sometimes the manufacturers have placed a restriction upon the sale of goods at an exorbitant price. In our own business we have had to restrict the price—that is, to tell a man we would not sell to him if he was going to continue getting those exorbitant prices. In other words, we wanted our trade-mark goods to get out at a reasonable price. We want the men who handle our goods to make some profit, but we do not want them to ask an excessive price on our goods to the consumer, and we have said we would absolutely refuse to sell unless they did sell at a reasonable price.

Mr. HULL. On the other hand, have you refused to sell unless they agreed to sell at a uniform price?

Mr. DURKEE. We do not attempt to restrict the selling price in any way except that we will not, if we can prevent it, allow them to make an exorbitant price, because to do that will hurt the sale of our brands.

Mr. HULL. What methods does your trade have for the purpose of bringing about stability of prices—that is, preventing the cutting and slashing of prices in the retailing and jobbing trade?

Mr. DURKEE. I do not think they have any. It is impossible to do that. For instance, you will very often see in the newspapers advertisements of department stores cutting the prices on certain articles for the purpose of overcoming the opposition of another store and in order to gain more trade in other lines. We would have great difficulty in preventing that, although it might be injurious to the

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manufacturers to have their brands unprofitably sold, although in a certain way it is desirable for a manufacturer, because the cheaper the intermediate men work for him the better, because it distributes his goods at a lower price, and the lower the price at which the goods are sold the greater the distribution of the goods.

Mr. DIXON. At what price did you say the retailer purchased this pepper?

Mr. DURKEE. He gets it at 45 cents and we sell it at 36.

Mr. DIXON. He gets a profit of $33\frac{1}{3}$ per cent?

Mr. DURKEE. Gross; yes, sir.

Mr. DIXON. And he is satisfied with that profit, is he?

Mr. DURKEE. Well, he gets 5 cents a package for the pepper, and the price on that package would not be cut, I imagine. If a cut in price was made it would no doubt be made on the larger package; for instance, the package that holds double the quantity, say a quarter of a pound package, which ought to retail, and ordinarily does retail, at 10 cents. That is frequently cut to a lower price; cut to 7 cents, 8 cents, or some other price.

Mr. DIXON. What proportion of pepper is put up in the 5-cent package?

Mr. DURKEE. At the present moment I should think the largest part of it, but I do not know the exact figures. For several reasons package goods of all sorts are increasing in favor. In the first place every package carries the name of the manufacturer, and the name of the manufacturer carries some weight as a guaranty of purity. It is also a convenient package, because the grocer does not have to put it up; it is also in an air-tight package; therefore it has a lessened deterioration. The spices contain a volatile principle and exposed to the air that evaporates. In an airtight package the goods remain strong longer, as they ought to remain. But you can not very well cut the price on the 5-cent article; but the packages containing double that quantity, the quarter-pound packages, are frequently cut in price.

The CHAIRMAN. The next witness will be Mr. W. D. Weikel.

TESTIMONY OF W. D. WEIKEL, REPRESENTING THE WEIKEL & SMITH SPICE CO.

The witness was duly sworn by the chairman.

Mr. WEIKEL. Gentlemen, I have been engaged in the spice business for nearly 30 years, my house for nearly 50 years, but I come before you as the representative of the American Spice Trade Association, a body made up of representatives of the importers and grinders as well as brokers in spices.

This association is almost unanimously opposed to the levying of a duty on crude spices, the only exceptions being a few who hope to benefit by the increase in price which would necessarily follow the placing of a duty—merely a matter of speculation—and these same people would in the future be just as likely to advocate the taking off of a duty, since their profits would come from the violent changes in prices which necessarily follow such actions.

Now, we advocate free crude spices, herbs, and seeds such as caraway, coriander, celery, and mustard, because such articles are not

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raised in this country, with but few exceptions. Red pepper is raised here in but small quantities, and every year the quantity seems to be less and less. Sage for commercial uses is brought from abroad, the American product not being used excepting where grown in private gardens or gathered by individuals, but the quantity of either is so small in comparison with the amount imported and used that it hardly enters into the consideration of the subject.

Secondly, to put a duty on crude spices means to increase the cost to the consumer. This would be adding to his burdens and especially those of the poor, for the poor use more spice by far than the rich. One of your honored members is reported to have said "To sustain high prices for food products by means of the tariff, is the greatest hardship lawmakers can impose on the American people."

Now, gentlemen, there are 96,000,000 people in the United States and there is not a household in which spice does not enter into its economy. We can do without salt in our food, but we do not want to do so. We can do without sugar in our food, but we do not want to do so; and so we can do without spice in our food—it is not necessary to sustain life—but we do not want to do so. The Italian goes and buys his few cents worth of ham sausage, but without spice it is not palatable.

There are no cheap articles of meat foods that are offered such as sausages, hamburg steaks, and the like, that are not made palatable, in fact possible, by the aid of spices. In fact this fact is so potent that when the discussion became general that meat was too high in price for the poor man, our own Department of Agriculture sent its agents through the country endeavoring to instruct the people in the preparation of the cheaper, if not the cheapest, cuts of meats, viz, by cooking them until tender and then making them palatable by the use of spices and savories.

In fact, the growth of the use of spices has been remarkable. Some districts which, 20 years ago, used very little, now take tons of them. But some will say that it does not take much spice. True. But it is the constant and everyday use that in the aggregate counts, and this small sum, not on one article of food but on a number, is what makes the burden. When the McKinley tariff was enacted, the workingman paid 5 or 6 cents more for his tin cup, but that lasted him perhaps a year or two; but with spice, add but a cent and the constant use will amount in a year's time to quite a little more than the 5 or 6 cents on his tin cup; and, then, no one escapes, as the use of spice is universal.

Mr. HARRISON. I think I recognized the quotation you made about the injustice of imposing a duty upon foodstuffs.

Mr. WEIKEL. Yes, sir.

Mr. HARRISON. But for my own part, I should hardly think spices were in the category to which reference was then made, because very few of us reckon them as a necessary of life, as you seem to do, and I am not at all sure that if the physicians of the country were polled your position would be sustained in this matter.

Mr. WEIKEL. Well, the use of spices is universal. Everyone uses them and they have been used——

Mr. HARRISON (interposing). And the use of tobacco is pretty nearly universal.

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Mr. WEIKEL. But tobacco is used not as a foodstuff and is not used as a food.

Mr. HARRISON. Spices are used in connection with food products, but I would hardly call them food products in themselves.

Mr. WEIKEL. As I tried to make clear, spices make food palatable. For instance, I took a cut of meat and said that under some circumstances that cut of meat would be said not to be good, but you can take spices and make it palatable—that is, by cooking spices with it. As I said before, we use the spices for making food palatable, and in that way they are necessities of life.

Mr. HARRISON. Are not spices sometimes used for making palatable meat that should not be used?

Mr. WEIKEL. No; I do not think so—that is, under the present inspection laws. That might have been so a few years ago, but I do not think it is so now.

Mr. HARRISON. I did not mean as far as the grinder of spices was concerned; that was not meant to be personal, but I have understood that spices were often used by restaurant people in order to make meat seem fit that should not be used at all.

Mr. WEIKEL. I do not think so, at least not to the extent it might have happened some time ago, because of the inspection laws that are now in existence. Pepper at the time of Caesar was worth its weight in gold and was as precious, but that day has long passed, and I have seen pepper, for instance, sell as low as 4 cents per pound. It is now worth about 10 cents.

Now, gentlemen, a word as to the differential between crude and ground spice. I do not think it safe to disturb the present condition. The spice people are not organized into a trust and can not be for the reason that there is no one house engaged exclusively in the spice business. It is almost without exception carried on as a department and an integral part of another business, to take which would possibly mean the breaking up of the other end of the business.

The margin of profit is very small. In fact, there is not a man in the spice business to-day who is making more than a mere salary out of it, such as he could do in any other enterprise in which he engaged. His investment very seldom gives him a return, and were it not for the fact that everyone engaged in the spice business carries some other commodity or commodities along as a side line which is profitable, would he be able to remain in the business. This can be confirmed by examining the reports made by the different corporations engaged in spice grinding, and also from the fact that no new firms are engaging in this business, but the weaker ones are gradually being eliminated by a process of dry rot.

If the differential be reduced, the manufacturer has reached his limit. He must fall back on his labor, as he has nothing to come and go on; and although I, for one, would be the last to do anything to push down the laboring man, yet it would be simply a question to him, "Are you willing to work for less on account of what a Democratic administration has done, or shall I close my factory?" One or the other would be inevitable, and so, gentlemen, I repeat that to place a duty on crude spices means that an increased duty should be placed on ground spices, and that means a higher cost on the

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food that concerns the poor man every day of his life, or if the differential is not maintained, then unless labor gives way, spices will not be ground here, but abroad.

You would get revenue, but when the cost of collecting the small amount which at most would be obtained is deducted, would it be worth the burden and toil you place upon the shoulders of thousands of poor men?

TESTIMONY OF R. A. M'CORMICK, REPRESENTING M'CORMICK & CO., BALTIMORE, MD.

The witness was duly sworn by the chairman.

Mr. M'CORMICK. Mr. Chairman, I have a brief which I would like to have printed, but I would like to call your attention to a few of the vital propositions.

This is the third time that I have appeared before the committee, and I offer the committee an apology for appearing so often, but it is because of the fact that it is the wish of the committee, and you, Mr. Chairman, as I understand it, that all questions affecting the tariff be taken up in the order in which they appear in the tariff of 1909.

I therefore wish to speak briefly upon the free list, having already filed a brief upon section 20 and section 298.

We are importers and manufacturers vitally interested in these schedules and rates, but we do not come to unreasoningly protest against any change, but to give you facts as to the spice trade without prejudice or reservation.

Spices have been on the free list on each succeeding tariff adopted by Congress for a generation. That they were first so listed by the exponents of the ultraprotective tariff theory seems quite conclusive evidence that they were then accepted and classed as noncompetitive necessities to comfortable and healthful existence rather than sybaritic luxuries, as claimed by Mr. Gibson, the attorney from New York, who so volubly pleads for heavy duties, and who succeeded in at least giving reasonable ground for the presumption that underlying the brief filed with you he holds a brief from some of the shrewd speculating importers, who see immediate profits by realizing on their stocks, if his advice be accepted for knowing so little of the business and of actual conditions personally, as is evidenced by his words, it is otherwise inconceivable that in the long list of imports now on the free list his altruistic fervor would have singled out this class alone as available for producing revenue.

That spices were considered necessities is further evidenced by the fact that all crude and unground spices were put on the free list except cayenne or red peppers and sage leaves. These exceptions were unquestionably made to foster the domestic cultivation of the only spices of all the list which have had or have now a chance of being grown to the advantage of the American farmer.

The spice-importing trade, as well as the consumers, are a unit in requesting that you recommend that those spices in the unground state now on the free list be allowed to so remain, and also that cayenne and red peppers in the unground state be included in your recommendations.

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Contrary to Mr. Gibson's significant assertion, I am sure that more than 80 per cent of all spices going to the consuming trade are ground in mills of those who make it a business and in that state are distributed to the consumer, reaching him through the retail grocer at prices ranging from $2\frac{1}{2}$ to $3\frac{1}{2}$ cents per ounce, instead of 5 to 10 cents per ounce, as stated by him. Of course, this does not apply to such articles as Saigon cassia, or cinnamon costing to import in quantities 40 cents per pound, or mace costing from 50 to 65 cents per pound, depending upon variety and quality. Ground spices usually reach the consumer in packages designed to sell at 5 and 10 cents, respectively. A duty of 1 cent per pound will increase the cost of these packages approximately 15 to 18 cents per gross for the 5-cent packages and 30 to 36 cents per gross for the 10-cent packages. If Mr. Gibson's suggestion that the duties of 6 cents per pound prevail, the cost would be increased 90 cents to \$1.20 per gross for the 5-cent packages and \$1.80 to \$2.15 for the 10-cent packages. If you make spices dutiable the consumer will continue to purchase 10-cent and possibly in a few instances 5-cent packages, but the contents will be proportionately less, for the margin in the business is so small that this increased cost must inevitably be passed along to him. The changed conditions will, however, cause the importer and packer great loss in adjusting his cartons, containers, and other expenses made necessary.

If you gentlemen decide to recommend a duty on whole spices, in settling upon the rate, due consideration should be given to the large loss in weight by the evaporation of the natural moisture. It is evident that if a duty be levied, the importer and packer will pay the extra duty on water in proportion to the loss in weight, which he must stand when invoicing to the trade, for most of this loss will occur within 60 days after landing and the importing manufacturer and packer can not in that time pass his goods on to other hands who would then stand the loss. The condition is similar to that affecting grain. I find it gives better returns to sell my wheat soon after harvest at 90 cents rather than hold it for three months with the almost certainty of getting \$1.05 per bushel.

Changing spices from the free to the dutiable list will be a factor small, it is true, but nevertheless appreciable in raising the cost of living.

I ask your attention to what has been said in a previous brief for the statement of the danger of abuse to the American consumer of any hospitality you may give to certain lines of ground spices is not overdrawn and is demonstrably true.

Cinnamon, cassias, sage, allspice, cloves, black and white peppers are not so greatly susceptible of abuse when imported in the ground state as are red peppers, gingers, nutmegs, and mace, to which we have referred in a previous brief. It is against these particularly that we ask the prohibitive duty to bar out such products in the ground state as would not be allowed entry in the unground.

The American manufacturer is making increased efforts to build up his trade with South America and other foreign countries and it is necessary to success that he be placed on an equal footing with England, Germany, or France.

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As now construed, section 25, of tariff act 1909, effectually prevents the exporting of flavoring extracts, of any kind, because not having been specifically named in the act, no drawback on domestic tax paid alcohol contained in their manufacture can be recovered, as provided for in the case of medicines and perfumery.

We hope this will be rectified either as proposed by Mr. Harrison in his bill, H. R. 17678, or by incorporation in the regular tariff act, as was proposed in section 99, H. R. 20182, so that the internal tax paid on domestic alcohol used in flavoring extracts may be recoverable by drawback, as now provided when exported for other alcoholic goods. The constituents, whether oil of lemon or alcohol, in lemon extract will be recoverable by the adoption of the method proposed, section 99, H. R. 20182, or in Mr. Harrison's bill, for even if a duty be put upon oil of lemon the amount used in a manufactured product can be ascertained by analysis as well as the amount of alcohol.

Summarizing, Mr. Chairman, we ask that ground leaves, etc., section 20, tariff act 1909, be made dutiable at 30 per cent ad valorem in addition to any duty that may be imposed on the unground products; that all ground spices, including red pepper, cayenne pepper and sage leaves, be made dutiable at the specific rate of 3 cents per pound, in addition to any specific or ad valorem duty put on them in the unground state, excepting ground mustard, which should be continued under the present duty of 10 cents per pound; that all spices unground now on the free list be retained on that list; and that vanilla beans and oil of lemon be continued on the free list, and that section 99, H. R. 20182, be incorporated in any tariff act you recommend to Congress.

Mr. Chairman, when I was before you last—I think it was on the 20th—this question was asked me: "I want to know whether our pure-food law is effective in respect to these products, or is it a failure, as you seem to contend, at least in this respect?" I replied, "I think the pure-food law is a success."

Now, Mr. Chairman, if it is entirely in order, I would like to ask you to let me state what I think of the pure-food law.

The CHAIRMAN. If you do not take too long.

Mr. McCORMICK. It will not take more than a minute or two. I desire to say that the food and drug act of June 30, 1906, was a very badly needed piece of legislation, well thought out and well drawn. It benefited the consumer by ridding the market of hundreds of brands of adulterated, impure, and inferior food products. It has very greatly benefited every legitimate manufacturer by protecting him against unscrupulous and dishonest misrepresentation and competition, thus placing the manufacturing, the packing, and the distributing of food products on a plane more nearly approximating common honesty.

The fact that it is impossible to make it or any law perfect does not detract from the necessity of this legislation or its benefits. No such law can ever be enacted that will not embrace in it features that will admit of argument as to the relative equity of the two sides, or some question that may confront those executing it, and which may not embrace elements of some great injustice to some manufacturer concerned. The fact that this law has been apparently executed at times without any elements of fairness and that prosecutions have seemingly

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been made by certain officials for no other reason than personal pique, causing many manufacturers to consider themselves persecuted rather than prosecuted, is, in my personal judgment, certain; but that does not militate against the need or value of or the great good accomplished by the food and drugs act.

Notwithstanding the common acceptance, I make the positive statement that the passage of this act was made certain only by the earnest support of many manufacturers, who welcomed its coming.

McCORMICK & Co.,
Baltimore, Md., January 30, 1913.

The WAYS AND MEANS COMMITTEE,
Washington, D. C.

GENTLEMEN: For McCormick & Co., of Baltimore, I wish to again speak briefly on the subject of spices. Your wish that these items be taken up in the order of the different schedules of the act of 1909 is my apology for appearing more than once.

We are importers and manufacturers vitally interested in these schedules and rates, but do not come to unreasoningly protest against any change but to give you facts as to the spice trade without prejudice or reservation.

Spices have been on the free list on each succeeding tariff adopted by Congress for a generation. That they were first so listed by the exponents of the ultraprotective tariff theory seems quite conclusive evidence that they were then accepted and classed as noncompetitive necessities to comfortable and healthful existence, rather than sybaritic luxuries, as claimed by Mr. Gibson, the attorney from New York, who so volubly pleads for heavy duties and who succeeded in at least giving reasonable ground for the presumption that underlying the brief filed with you he holds a brief from some of the shrewd speculating importers who see immediate profits by realizing on their stocks if his advice be accepted, for, knowing so little of the business and of actual conditions personally, as is evidenced by his words, it is otherwise inconceivable that in the long list of imports now on the free list his altruistic fervor would have singled out this class alone as available for producing revenue.

That spices were considered necessities is further evidenced by the fact that all crude and unground spices were put on the free list except cayenne or red peppers and sage leaves. These exceptions were unquestionably made to foster the domestic cultivation of the only spices of all the list which have had or have now any chance of being grown to the advantage of the American farmer.

Those responsible for the listing counted not that the American farmer is handicapped by insurmountable differences in cost of production, and that many generations will be born and pass away before the negro of East Africa or the Coolie laborer of India, who cultivates the pepper fields, will earn even a modicum of what the American farm laborer must have to pay for the necessities of his existence under our civilization.

To a less degree, but none the less appreciable, the same may be said of the poverty-stricken peasants of the mountains about the Adriatic Sea who gather the one and one-half million pounds of wild sage annually sent to this country.

The spice-importing trade, as well as the consumers, are at one in requesting that you recommend that those spices in the unground state now on the free list be allowed to so remain, and also that cayenne and red peppers in the unground state be included in your recommendation.

Contrary to Mr. Gibson's assertion, I am sure that more than 80 per cent of all spices going to the consuming trade are ground in mills of those who make it a business and in that state are distributed to the consumer, reaching him through the retail grocer at prices ranging from 2½ to 3½ cents per ounce instead of 5 to 10 cents per ounce as stated by him. Of course, this does not apply to such articles as saigon cassia, or cinnamon, costing to import in quantities 40 cents per pound, or mace costing from 50 to 65 cents per pound, depending upon variety and quality. Ground spices usually reach the consumer in packages, designed to sell at 5 and 10 cents respectively. A duty of 1 cent per pound will increase the cost of these packages approximately 15 to 18 cents per gross for the 5 cents packages, and 30 to 36 cents per gross for the 10 cents packages. If Mr. Gibson's suggestion, that duties of 6 cents per pound prevail, the cost would be increased 90 cents to \$1.20 per gross for the 5 cents and \$1.80 to \$2.15 for the 10 cents package. If you make spices dutiable, the consumer will continue to purchase 10 cents, and possibly in a few instances 5 cents packages, but the contents will be proportionately less, for the margin in the business is so small that this increased

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cost must inevitably be passed along to him. The changed conditions will, however, cause the importer and packer great loss in adjusting his cartons, containers, and other expenses made necessary. That importing and dealing in spices is a business of great risk and hazard should be considered.

Owing to crop failures, incident to droughts and other causes, alternating with seasons of heavy productions, and artificial advances or declines forced on the American importer by the great syndicates formed in Europe for manipulation of prices, import costs fluctuate violently. Cloves within a year have advanced from 13 to 19 cents; reacted to 10½ cents and now stand at 21½ cents per pound for import cost.

Gingers have fluctuated between 8, 12, and 5 cents per pound; allspice from 6½ to 4 cents, nutmegs from 10 to 16 cents, pepper from 9 to 11 cents, celery seed from 8 to 35 cents, French marjoram from 7 to 14 cents, German marjoram from 14 to 32 cents.

Many other similar instances could be cited.

If you gentlemen decide to recommend a duty on whole spices, in settling upon the rates, due consideration should be given to the large loss in weight by evaporation of the natural moisture.

Black and white peppers will lose 2 to 5 per cent; gingers, 5 to 15 per cent; red peppers, 6 to 10 per cent; cloves, 7 to 20 per cent; allspice, 5 to 10 per cent; nutmegs, 2 to 7 per cent; cassias, 5 to 8 per cent; and other spices in proportion.

It is evident that if a duty be levied the importer and packer will pay the extra duty on water in proportion to the loss in weight, which he must stand when invoicing to the trade, for most of this loss will occur within 60 days after landing, and the importing manufacturer and packer in that time can not pass his goods on to other hands, who would then stand the loss. The condition is similar to that affecting grain. I find it gives better returns to sell my wheat soon after harvest at 90 cents rather than hold it for three months, with the almost certainty of getting \$1.05 per bushel.

Changing spices from the free to the dutiable list will be a factor small, it is true, but nevertheless appreciable in raising the cost of living.

I state positively that there is no combination or understanding among importers and dealers in these products for boosting prices or getting illegitimate profits. They are handled on small profits, and on those keen competitive lines which so many think elements necessary to the millenium of low-cost products.

Notwithstanding the undoubted disparity of labor and salary costs, if given equal laid down costs and mechanical processes, I am sure the properly equipped American plant handling spices can compete against all comers, whether the crude product comes from the region of "Africa's sunny fountain or India's coral strand."

I ask your attention to what has been said in a previous brief for the statement of the danger of abuse to the American consumer of any hospitality you may give to certain lines of ground spices is not overdrawn and is demonstrably true.

Cinnamon, cassias, sage, allspice, cloves, black and white peppers are not so greatly susceptible of abuse when imported in the ground state as are red peppers, gingers, nutmegs, and mace, to which we have referred in a previous brief. It is against these particularly that we ask the prohibitive duty to bar out such products in the ground state as would not be allowed entry in the unground.

We further ask your consideration of vanilla beans and the essential oil of lemon, both imported and which can probably never be produced to advantage in the United States.

The American manufacturer is making increased efforts to build up his trade with South American and other foreign countries, and it is necessary to success that he be placed on an equal footing with England, Germany, or France.

As now construed, section 25, tariff act, 1909, effectually prevents the exporting of flavoring extracts of any kind, because not having been specifically named in the act, no drawback on domestic tax paid alcohol contained in their manufacture can be recovered, as provided for in the case of medicines and perfumery.

We hope this will be rectified either as proposed by Mr. Harrison in his bill, H. R. 17678, or by incorporation in the regular tariff act, as was proposed in section 99, H. R. 20182, so that the internal tax paid on domestic alcohol used in flavoring extracts may be recoverable by drawback, as now provided when exported for other alcoholic goods. The constituents, whether oil of lemon or alcohol on lemon extract, will be recoverable by the adoption of the method proposed, section 99, H. R. 20182, or in Mr. Harrison's bill, for even if a duty be put upon oil of lemon the amount used in a manufactured product can be ascertained by analysis, as well as the amount of alcohol.

If a duty be put on vanilla beans we are satisfied it will prevent the exporting of extracts manufactured from them, for the reason that after manufacturing there is

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no accurate chemical means of arriving at how much vanilla beans have been used in making the extract or flavor. We are, therefore, satisfied the Government can arrange no method that will be satisfactory of allowing the drawback for duty-paid goods used in manufacturing when exported from the United States, and that the drawback will not be recoverable.

In manufacturing 1 gallon of vanilla extract of standard strength $13\frac{1}{2}$ ounces of vanilla beans, at an average cost of \$2.75 per pound, will be required. The $13\frac{1}{2}$ ounces used will cost \$2.322. If duty of 50 cents per pound be imposed the vanilla beans will cost \$3.25 per pound, and the $13\frac{1}{2}$ ounces used \$2.745. Therefore increased cost of 1 gallon of extract by reason of the duty will be 42.3 cents per gallon. The loss to the manufacturer on any such product exported will be 42.3 cents per gallon, or about 10 per cent on the cost. The American manufacturer wishing to compete with England or Germany for the South American or other foreign trade will therefore be at a disadvantage to the extent of the per cent named.

The internal-revenue tax upon the alcohol used in the manufacture of this gallon of vanilla extract can easily be determined and can be recovered by drawback on the goods when exported if section 99, H. R. 20182, be adopted in new tariff legislation.

Summarizing: We ask that ground leaves, etc., section 20, tariff 1909, be made dutiable at 30 per cent ad valorem in addition to any duty that may be imposed on the unground products.

That all ground spices, including red pepper, cayenne pepper, and sage leaves be made dutiable at the specific rate of 3 cents per pound in addition to any specific or ad valorem duty put on them in the unground state, excepting ground mustard, which should be continued under the present duty of 10 cents per pound.

That all spices unground now on the free list be retained on that list; and

That vanilla beans and oil of lemon be continued on the free list, and that section 99, H. R. 20182, be incorporated in any tariff act you recommend to Congress.

**BRIEF SUBMITTED BY STICKNEY & POOR SPICE CO.,
BOSTON, MASS.**

Boston, January 8, 1913.

Hon. OSCAR W. UNDERWOOD,
Chairman Committee on Ways and Means,
Washington, D. C.

DEAR SIR: We desire to respectfully ask that spices, aromatic seeds, mustard seeds, and all kindred goods which enter as raw material into pure food products, shall be put on the free list.

It is natural for us to expect that the cost of pure food products shall not be increased in any tariff formulated by a Democratic Congress. The above goods are used in every kitchen and in every meat and food packing house in the land. Every time a new tariff is discussed some lawyer appears representing foreign and New York speculative interests, and asks that these goods be put on the dutiable list. Immediately the goods are pushed up because of excited advertising through the newspapers, the interested parties sell out and make large profits, and the grocers or the public pay the consequences. It has been so when previous tariffs have been discussed.

When the Payne bill was in the Lower House, one party in London and one party in New York began to ring the changes on these goods, and call them "luxuries." The New York Herald last spring printed an interview with a New York lawyer who rang the changes on "luxuries." At the present moment the interested parties are hiding behind a lawyer, and the said lawyer is still ringing the old changes on "luxuries." Every woman in the land who ever enters her kitchen knows better.

We desire to protest against these goods being included in the chemical schedule. They are natural growths of the soil—crude materials—and belong naturally to the agricultural schedule, just like potatoes or apples, or similar growths.

Yours, very truly,

STICKNEY & POOR SPICE CO.,
JAMES S. MURPHY, *President.*

PARAGRAPH 680.
Spunk.

PARAGRAPH 681.

Spurs and stilts used in the manufacture of earthen, porcelain, and stone ware.

PARAGRAPH 686—SULPHUR ORE.

PARAGRAPH 682.

Stamps; foreign postage or revenue stamps, canceled or uncanceled, and foreign government stamped postcards bearing no other printing than the official imprint thereon.

PARAGRAPH 683.

Stone and sand: Burrstone in blocks, rough or unmanufactured; cliff stone, unmanufactured; rotten stone, tripoli, and sand, crude or manufactured, not otherwise provided for in this section.

PARAGRAPH 684.

Storax, or styrax.

PARAGRAPH 685.

Strontia, oxide of, and protoxide of strontian, and strontianite, or mineral carbonate of strontia.

PARAGRAPH 686.

Sulphur, lac or precipitated, and sulphur or brimstone, crude, in bulk, sulphur ore as pyrites, or sulphuret of iron in its natural state, containing in excess of twenty-five per centum of sulphur, and sulphur not otherwise provided for in this section.

SULPHUR ORE.

BRIEF BY THE GRASSELLI CHEMICAL CO.

CLEVELAND, OHIO, *January 30, 1913.*

Hon. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee.

DEAR SIR: We submit the following in our request that sulphur ore as pyrites be continued on the free list.

Pyrites ore is used in the manufacture of sulphuric acid. Considerable sulphuric acid is consumed in the production of sulphate of ammonia and fertilizers and indirectly in the manufacture of other necessary agricultural articles, like tree and plant sprays, insecticides, remedial agents for every kind of live stock, disinfectants, etc.

It is not possible within the limits of this brief to itemize all the applications of sulphuric acid, because it is the raw material for practically every variety of chemical and pharmaceutical manufacture.

It is probably the most important basic material consumed by paint, color, and pigment manufacturers; the textile industry, as well as those of paper, rubber, glass, tinplate, oil, wire and wire nail, sheet steel, both blue and galvanized, leather, bleaching and dying, gold, silver, and nickel plating, dynamite, etc. The creamery and dairy laboratories use it to test the purity of milk, and the gold and silver refiner to part those metals. These applications are given only to show how diversified is the consumption.

The domestic production of pyrites is totally inadequate for the domestic requirements. An import duty would be reflected in a higher cost of sulphuric acid and a disturbance of a trade, which is now and has been for a long time past only moderately profitable. The capital involved and the amount of labor employed in mining pyrites in the United States is exceedingly small, when compared to the other interests directly affected by the cost of pyrites and its product, sulphuric acid.

The following statistics from the Mineral Industry of 1911, page 684, show the production, imports, and consumption of pyrites in the United States for five years ending December 31, 1911.

Year.	Production.	Imports.	Consumption.
	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>
1907.....	261,871	656,477	918,348
1908.....	206,471	608,115	874,586
1909.....	210,000	692,385	902,385
1910.....	223,700	806,590	1,030,290
1911.....	261,087	1,001,453	1,262,540

PARAGRAPH 686—SULPHUR ORE.

This table shows that approximately one-fifth of the consumption is domestic ore, and the placing of an import duty must materially increase the cost of the total annual requirements.

A large tonnage of the pyrites imported contains copper, and supplies a residue used as a flux in smelting domestic copper ores in the middle Western and the Eastern States.

The following table from the Mineral Industry, page 686, shows the production of pyrites ore in this country and the world's production for five years. Figures or the world's total for 1911 are not yet available:

Year.	United States.	Total of the world.
	<i>Tons.</i>	<i>Tons.</i>
1907.....	266,061	1,854,849
1908.....	209,774	1,768,365
1909.....	213,371	1,730,000
1910.....	227,280	1,826,854
1911.....	265,272	

From the foregoing table it will be seen that the domestic production has not increased during the past five years, notwithstanding the fact that the domestic consumption has very much increased, as shown by the previous table.

Therefore, we assume that the placing of a duty on pyrites ore will not tend to increase the domestic production, as we feel that the known workable deposits, within reach of consuming points, are developed and have been worked to their capacity.

Many large consumers have conducted explorations with the object of finding pyrites sufficient for their requirements, but the quantity or quality has been so lacking that the proportion of necessary imports has not been greatly changed, and the differences, from year to year, have been an increase in the consumption of foreign ore. We, therefore, request that pyrites ore remain on the free list.

Respectfully submitted.

THE GRASSELLI CHEMICAL CO.,
E. R. GRASSELLI, *Treasurer.*

BRIEF BY THE MERRIMAC CHEMICAL CO., BOSTON, MASS.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: On behalf of the Merrimac Chemical Co., I beg to submit the following brief covering certain articles now on the free list under the act of 1909.

SULPHUR ORE AS PYRITES.

Under paragraph 686 of the act of 1909 sulphur ore as pyrites is entered free. Pyrites is an iron ore containing about 50 per cent sulphur and is the basic raw material used in the manufacture of sulphuric acid. Its importance can not be exaggerated. It is the foundation of nearly the entire chemical industry in this country and abroad.

The report of your committee on Schedule A, submitted on February 16, 1912, gives, under Appendix C, considerable information regarding pyrites. At page 173 the report says:

"Pyrites in workable deposits are found very widely, but with the exception of Spain and Portugal no country has sufficient of it for its own needs, and the countries named are called upon to supply the deficiency, which they can easily do. Pyrites mined there are richer and more uniform in sulphur content, burn more freely, and offer other advantages which make them preferable to the manufacturers.

"Of the total consumption of pyrites in the United States in 1909, amounting to nearly 1,000,000 short tons, less than one-fourth was of home production, a small quantity came from Canada, and the rest from the Iberian Peninsula, especially Spain."

On page 172 of the report will be found a table showing that more than 50 per cent of the total consumption of sulphuric acid in the United States is used in the manufacture of fertilizers.

PARAGRAPH 686—SULPHUR ORE.

Considering the great and necessary uses made of sulphuric acid in connection with the many industries of this country, particularly in connection with agricultural enterprises, it is submitted that sulphur ore as pyrites should remain on the free list.

PLATINUM.

Paragraph 653 of the act of 1909 provides:

"Platinum, unmanufactured or in ingots, bars, plates, sheets, wire, sponge, or scrap, and vases, retorts and other apparatus, vessels, and parts thereof, composed of platinum, for chemical uses."

For the first 10 months of 1912 there were imported into this country \$3,634,738 worth of platinum in the manufactured or unmanufactured condition. It is estimated that during the same period the total production in this country did not exceed \$50,000 in value.

It is of utmost importance to the chemical industry that platinum remain on the free list. Although the price of platinum has greatly increased in the last few years, so that its use has been discontinued by chemical manufacturers wherever possible, there are certain chemical processes where no substitute can be found. The present price of platinum is about \$46 an ounce, while within five years it has sold for about \$25 an ounce, and 20 years ago it sold as low as \$8 or \$9 an ounce.

To place a duty on platinum would place a very severe burden on the production of many chemicals in which the use of this metal is indispensable.

ARSENIC.

Under paragraph 497 of the act of 1909 arsenic is entered free of duty. It is submitted that arsenic should remain on the free list.

Arsenic is the most important basic material entering into the production of agricultural insecticides.

The enormous growth of the use of insecticides in connection with the scientific improvement in our method of fruit growing, etc., make it of great importance that the materials required for their manufacture should be available at the lowest possible prices.

For these reasons it is submitted that arsenic as a basic raw material should remain on the free list.

Respectfully submitted.

S. W. WILDER, *President.*

STATEMENT SUBMITTED BY JAS. A. MONCURE, RICHMOND, VA.

RICHMOND GUANO CO.,
Richmond, Va., January 29, 1913.

Hon. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: We write regarding the free list which we understand is coming up for consideration January 31.

We wish to call your attention to sulphur and sulphur ore, or pyrites.

This country has the largest deposits of phosphate rock in the world.

In order to render this available as fertilizer, it is necessary to treat the rock with sulphuric acid, making acid phosphate, which is the basis of commercial fertilizers used for cotton, corn, tobacco, and other crops.

There are 2,000,000 or more tons of phosphate rock thus used annually in the United States.

The only possible way of making this 2,000,000 tons of phosphate available as plant food is by dissolving in sulphuric acid, which is made chiefly from pyrites, and nearly 1,000,000 tons of pyrites is consumed in the country annually for the purpose, and most of this is imported from Spain, as very little is produced in this country.

To tax sulphur or pyrites would increase the cost of fertilizers, and we know of no interest in this country, needing protection, which would benefit thereby.

Sulphur is also used for various "Sprays" for the protection of crops, especially fruits.

The principle of free plant food is an established one, and the fertilizer industry has been built on it.

PARAGRAPH 686—SULPHUR ORE.

We ask no protection on our products, and think it unfair to tax our raw materials. We respectfully ask that all forms of plant food remain on the free list.

Yours, very truly,

JAS. A. MONCURE,
*Chairman Independent Fertilizer Association,
Representing Seventy-odd Fertilizer Manufacturers.*

BRIEFS ON SULPHUR ORES.

BOSTON, January 31, 1913.

HON. OSCAR W. UNDERWOOD,
*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

DEAR SIR: On behalf of the Cochrane Chemical Co., of Boston, Mass., I beg to submit the following brief:

PYRITES.

Under the act of 1909 sulphur ore as pyrites is entered free. Pyrites is an iron ore containing about 50 per cent sulphur, and is the principal raw material of the whole chemical industry. It is the raw material from which sulphuric acid is made, which latter article enters into almost all other chemical operations.

This article is, as stated above, now on the free list, and it is of vital importance to keep it there, because a comparatively small amount is produced in this country and the acid manufacturers are absolutely dependent on the foreign supply. In the years 1900 to 1909 the United States produced only 849,066 tons, while in that period it consumed 2,792,264 tons, showing it was obliged to import 70 per cent of its consumption.

Moreover, statistics show that more than 50 per cent of the sulphuric acid produced in the United States goes into the manufacture of fertilizers, and any duty placed on the raw material pyrites must necessarily in the end work a great hardship on the farming industry of this country.

We respectfully present these facts for your most earnest consideration.

Yours, very truly,

COCHRANE CHEMICAL CO.,
LINDSLEY LORING, *Treasurer.*

BAUGH & SONS CO.,
Philadelphia, January 29, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: Millions of tons of domestic phosphate rock, animal bones, tankage, etc., are treated with sulphuric acid manufactured in the United States from pyrites imported from Spain free of duty.

The price of the manufactured or finished fertilizer, therefore, is cheaper to the consumer than it would be if duty were paid on imported pyrites.

The best and most suitable pyrites that can be obtained for the purpose is that which is brought from Spain. Indeed there is no satisfactory substitute known at present.

In the manufacture of our own make of finished fertilizers we require about 75,000 to 100,000 tons annually of sulphuric acid, for the manufacture of which acid the pyrites from Spain are exclusively used.

In this concise and simple statement will be found upon a moment's reflection the effect upon the consumer of fertilizers of an imposed duty on imported pyrites, i. e., higher cost for pyrites; consequently higher cost for the domestic sulphuric acid, and the last and most serious result, of higher cost of finished fertilizers used by farmers throughout the United States.

Very truly, yours,

B. H. BREWSTER, Jr., *Vice President.*

PARAGRAPH 687.

Sulphuric acid which at the temperature of sixty degrees Fahrenheit does not exceed the specific gravity of one and three hundred and eighty one-thousandths, for use in manufacturing superphosphate of lime or artificial manures

PARAGRAPH 689—TAPIOCA FLOUR.

of any kind, or for any agricultural purposes: Provided, That upon all sulphuric acid imported from any country, whether independent or a dependency, which imposes a duty upon sulphuric acid imported into such country from the United States, there shall be levied and collected a duty of one-fourth of one cent per pound.

PARAGRAPH 688.

Tamarinds.

PARAGRAPH 689.

Tapioca, tapioca flour, cassava or cassady.

TAPIOCA FLOUR.

TESTIMONY OF JOHN A. T. HULL.

The witness was duly sworn by the chairman.

Mr. HULL. Mr. Chairman and gentlemen of the committee, I want to very briefly call your attention to one or two matters in the administrative part of the bill, and will state very frankly that I do not know that I am at all competent to advise the committee as to the best method of procuring the tariff desired, and if I can only secure the attention of the committee to the matter I will have accomplished all that I hope to do in this matter.

I desire first to call the attention of the committee to the subject of dumping. The people of this country have a prejudice against our manufacturers dumping their goods in foreign countries, and should be willing to protect our manufacturers from dumping by foreigners in the markets of the United States. I take the liberty of submitting a very short brief on that, calling attention to the laws of Canada and some of the other countries.

The next administrative feature that I desire to call attention to is that in regard to drawbacks. The present law has a section on drawbacks. It works a hardship on our manufacturers in requiring the factories, especially in corn products, to close down the factory and clean out all the domestic product and then close the factory, when they have run on the foreign product, until it is entirely eliminated, before they can start up again in the domestic product, causing quite a loss to the manufacturers in that respect. And about all we hope to do in this connection is to call the attention of the committee to it and quote the laws of France and some other countries.

The CHAIRMAN. Is that in the law, or is it a regulation?

Mr. HULL. It is a regulation.

The CHAIRMAN. That is a department regulation?

Mr. HULL. A department regulation.

Mr. HILL. It is in the law—you refer to the identification?

Mr. HULL. The identification. The regulation as to how it shall be done is made by the Treasury Department.

Mr. HILL. What you want to get is a substitution clause?

Mr. HULL. I would like to have a substitution clause.

Mr. HILL. You will remember that was in the bill as passed by the House, the Payne bill, and it was stricken out in the Senate.

Mr. HULL. I would like a substitution clause by which the Government can be absolutely protected, but have the manufacturers put to very much less loss in transferring from one line of work to the other.

PARAGRAPH 689—TAPIOCA FLOUR.

Mr. HAMMOND. You want to quote an amount of value in its identification of product?

Mr. HULL. Yes. France, I think, has a valuation established on starches—in each bushel of corn so much starch. I do not know that that is fair, because the French law gives such a valuation on the amount in a rate that it is practically a bonus; and I would hardly approach this committee with the hope of getting any bonuses.

Mr. HILL. Mr. Hull, we considered the French law when the substitution clause was put in the Payne tariff bill as it passed the House, but it was not thought wise to adopt that, because the French Government gives a certificate which is negotiable and transferable to another person.

Mr. HULL. Yes.

Mr. HILL. But the section put in the Payne tariff bill was a substitution clause for the same parties that made the importation. I think it was stricken out by the Senate.

Mr. HULL. I sincerely hope that, in the interest of our manufacturers, regardless of the question of the amount of the tariff, some method will be reached by which they will not be put to the expense of being compelled to permit their factories to remain idle for days at a time while transferring from one line of work to the other. If it is intended to give the manufacturers the drawback, it ought to be given to them with as little expense to them and their manufacturing concerns as it is possible to do.

The CHAIRMAN. Isn't there great danger of the Treasury being robbed by a proposition of that kind?

Mr. HULL. That is a question, Mr. Chairman, it seems to me, that the committee can work out better than any outsider can. I imagine that it can be fixed so that there would be very little danger of the Treasury being robbed. Of course, you have to have the administrative part of it, to a certain extent, designed upon the absolute proofs, unless you do adopt the French rule of having a certain fixed amount—when, for instance, to a bushel of corn so many pounds of starch.

Another fact that comes in there—the by-products of these corn products are free, and yet this virtually levies a tariff on our people in the nature of an extra expense by taking advantage of this drawback.

Now, as I said in the beginning, Mr. Chairman, I am not expert enough in the tariff to go into the administrative features of it with the hope of specially enlightening this committee. What I want to do is to call the attention of the committee to these matters that seem to me to require some changes. The main argument that I desire to make to this committee refers more especially to the question of starches, with sago and tapioca, in the free list. I referred to this matter before the committee on a previous occasion. There is no question in my mind that sago and tapioca flours are starches. They were retained on the free list through what, to my mind, is clearly a misunderstanding of the subject when it was before the Congress, when the present law was enacted. The discussion in the Senate, I think, clearly proves this. Senator Gallinger called attention to the

PARAGRAPH 689—TAPIOCA FLOUR.

fact that sago and tapioca flour is used largely in our manufactures. Senator Aldrich replied, "We do not use one single pound for starch, in my judgment. Sago and tapioca flours are used for food."

Senator Aldrich is a great authority on the tariff, and yet I think he is clearly and absolutely wrong in that statement. Further on in the debate, in answer to a statement made by Senator Cummins, wherein the Senator from Iowa was showing that it was used for starch, the following will be found:

Mr. ALDRICH. If the Senator will turn to paragraph 292—

Mr. CUMMINS. I have it before me, Mr. President.

Mr. ALDRICH. He will find that all other starch, including all preparations from whatever substance produced, fit for use as starch—

Mr. CUMMINS. Precisely.

Mr. ALDRICH. It is dutiable at 1 cent per pound. That answers the Senator's arguments conclusively. I will say that this article is not used as starch, and the Senator can not produce any evidence that it is used as starch. It is used for an entirely different purpose.

The debate proceeded at much greater length, but the Senator from Rhode Island's contention that it is not used as starch is what I desire to especially call the attention of this committee to.

The Supreme Court of the United States in a decision some years ago on an appeal from an appraiser decided that sago flour and tapioca flour are starches, and a reading of the decision will show that these flours are starches and are admitted free of duty because expressly mentioned in the free list. If they were not expressly mentioned in the free list they would be dutiable. We present in our exhibits on this question what I regard as absolute proof of the character of these flours. Even the firms importing and selling them in this country refer to them as starches, and I call the attention of the committee here especially to the letters inclosed in the brief from one of the leading firms, Stein, Hirsch & Co., in which they expressly appeal to the trade to buy sago and tapioca flours as a starch equal to potato starch. They are treated by all other nations as starches, as shown by the rate of duty levied in the different countries. In Canada 1 cent per pound is levied on starches, rice flour, sago flour, and tapioca flour; Germany levies equivalently \$1.62 per 100 pounds on sago flour and tapioca flour, treating them as starches, and also levies the duty whether they are in a crude state or as flour; France, Bulgaria, Roumania, Italy, Russia, Argentina, and Austria all levy a high rate of duty on starches, and specifically include in each case sago and tapioca flours.

Independent of the question of protection and considering only the question of revenue, these flours should be included at as high a rate of duty as any of the starches on account of the enormous increase in importation. The records of the Department of Commerce and Labor show that, in 1882, 7,824,743 pounds of these two flours were imported into the United States, while in 1911, 72,680,218 pounds were imported, making an increase of 10 times the amount imported in the first year referred to. I assume, of course, that no matter what may be the ultimate result of this tariff revision there is sure to be a reasonable duty on the starches, and I am confident that a full investigation by the committee will insure the inclusion of these two flours in the general starch schedule.

PARAGRAPH 689—TAPIOCA FLOUR.

As further proof of these flours being starches and not food products, I submit herewith letters from the three leading grocerymen in Washington. Mr. John H. Magruder gives three preparations, with the prices attached, as the only forms of sago and tapioca that he handles for food purposes, and stated at the time it was given that he knew nothing about the flour preparations. I will say, further, that he said he also handled German sago and French sago made from potatoes, but all I wanted was to get the tapioca and the sago preparations.

Mr. Burchell, in his letter, gives similar certificates, and Cornwell & Son also. Messrs. F. Rose & Co., of New York City, send us a letter stating that sago and tapioca flours are imported and sold as starches in open competition with all other starches. I submit these letters here in full, but I do not know that it is necessary to read them.

Mr. HAMMOND. What is the raw product of the sago flour? What is it?

Mr. HULL. Sago is the pith of the palm.

Mr. HAMMOND. The pith of that palm tree is manufactured to make this sago flour or starch, as you call it?

Mr. HULL. It is manufactured. First, it is taken out and treated——

Mr. HAMMOND. Just a moment. It goes through a process of manufacture?

Mr. HULL. Yes.

Mr. HAMMOND. Now, is there any difference that you can state between the manufacture of sago flour or starch from the pith of the sago tree, or sago palm tree, and the manufacture of potato starch from raw potatoes?

Mr. HULL. Why, I think that they are treated differently, probably because the pith of the tree has to be, I think, treated quite freely at first on account of its not being a healthful product in its original state.

Mr. HAMMOND. Well, I think, Mr. Hull, the process is identical.

Mr. HULL. It may be identical.

Mr. HAMMOND. I think the treatment is identical.

Mr. HULL. I am not conversant enough with the manufacture to answer that question definitely.

Mr. HAMMOND. The same process of manufacture that converts potatoes into potato starch converts the pith of the sago palm into sago flour.

Mr. HULL. I will say that my mind was directed to this only from the point that I was anxious to get before the committee that these are starches, so treated by all of the nations of the world and by all the trade of the United States.

Mr. HAMMOND. I thought that possibly it might add to your argument if——

Mr. HULL. I am obliged to you for bringing that out.

Mr. HAMMOND (continuing). If it should appear that the process of manufacture is precisely the same.

Mr. HULL. Well, I don't know, I frankly say to the committee, that the processes are exactly similar.

Mr. HAMMOND. And it is used for starch by the cotton mills, is it not?

PARAGRAPH 689—TAPIOCA FLOUR.

Mr. HULL. Altogether, nearly.

Mr. HAMMOND. But is not considered so good a starch as potato starch?

Mr. HULL. Well, some of these letters I have inserted in our brief insist that it is equally as good as potato starch; and you will remember Mr. Morningstar, who when the present law was before the Congress appeared before the Senate with a brief insisting that these flours should be treated as food products and not put on the dutiable list, has come before this committee and in his testimony here insists that they are purely starches, not food products, and that it is an outrage to allow them to be free when you tax the German starch. Now, I suppose his argument is that these flours are starches, and ought to be taxed, if potato starch is taxed, at a cent and a half, made by the industries of Germany, these starches made by coolie labor ought to be equally taxed, as I remember his address.

Mr. HARRISON. May I ask you a question, for my information?

Mr. HULL. Certainly.

Mr. HARRISON. Your contention is that tapioca and sago flours are used chiefly for manufacturing purposes and not as food products?

Mr. HULL. The same as starches; yes.

Mr. HARRISON. Now, into what manufactured products are they made?

Mr. HULL. I think largely in cotton goods.

Mr. HARRISON. I beg pardon?

Mr. HULL. I think largely in cotton goods, in filling and sizing.

Mr. HARRISON. Are they used in making dextrines?

Mr. HULL. They can be used in making dextrines; yes, sir; and are. But I am talking about their use in present form.

Mr. HARRISON. And you desire to have us take tapioca and sago flour off the free list and class it in the dutiable list with starches?

Mr. HULL. Yes, sir. And, then, I also desire, Mr. Harrison, further than that, that you fix the free list so it will not interfere with the food products at all by inserting in the free list in those paragraphs—I will come to that a little later—a provision that sago and tapioca in pearl and flake form used for food shall be free.

Mr. HARRISON. Would that—tapioca and sago in flake form—confine the definition sufficiently so that the food product would still remain in the free list?

Mr. HULL. I think there is no question of that, Mr. Harrison, and you can make it very clear; that will keep them on the free list absolutely; and you can make it very clear by inserting in the paragraph on starches, in the dutiable list, "including sago and tapioca flours." That would exclude the flours from the free list absolutely.

Mr. HARRISON. Well, at present starch is in the agricultural schedule?

Mr. HULL. Yes.

Mr. HARRISON. At about 49 per cent ad valorem equivalent to specific rate. And we observed the other day, when witnesses were before the committee, that only about 2 per cent of the American consumption is imported, so that there is a possibility that the committee may propose to reduce the duty on the starches now carried in the agricultural schedule, and, further than that, the duty on dextrines

PARAGRAPH 689—TAPIOCA FLOUR.

was reduced from 1½ cents a pound to three-fourths of a cent a pound in the chemical schedule; and with the added fact that the cotton manufacturers are getting their rate cut in two you can see that the tendency would be to reduce duties on starches rather than to raise them.

Mr. HULL. I am not advocating a raise of duty on starches, Mr. Harrison, but here is 72,000,000 pounds of these flours brought into the United States in 1911 that come in free as food products, as Congress thought, that are competing with starches from Germany and other countries that pay a duty, as well as with our own starches. I am not arguing the question of rate of duty. In our briefs we have submitted what we believe to be a fair proposition on the question of protection, and I do not conceive that that question is now before us for the reason that this is only preventing what has been a wrong heretofore by the elimination of this product from cheap-labor countries coming in as a food product when it is not a food product in any sense of the word.

Mr. HARRISON. Manufacturers have even testified here that if we would put potato starch on the free list they could manufacture dextrines out of potato starch over here and make a big industry.

Mr. HULL. In order to make dextrines, in my judgment, Mr. Harrison, if the committee will allow me to go into that—in my judgment you have got to have at least one-half a cent a pound more on dextrines than you have on the starches. If you fix the starches at a lower rate you still are compelled, if you make your dextrines here, in my judgment, to levy a higher rate of duty on the dextrines, because of the wastage. In other words, there is a very large wastage in making dextrines, and if it was a free proposition, equal, the same duty as starches, they could all be brought over and money saved by the manufacture of dextrines abroad.

Mr. HARRISON. I will say myself that we think probably the schedule ought to fix a higher rate of duty on dextrines than on starches, and it is obvious that the starch duties have got to come down.

Mr. HULL. It is for the committee to decide that. I am only trying to make the point here, in this brief, that when you do fix the duty on starches, according to every definition of a starch, according to every analysis of a starch, according to the uses that these flours are put to, they should be included in the starch schedule. Now, as to that rate of duty, I imagine that anything I might say would have very little influence, but as a revenue producer alone, if you have a rate of duty on starches at all, you ought to include these, because you are losing the revenue without doing any benefit to anybody except the man that manufactures these flours and the man that imports them into the country. You have lost the revenue on 72,000,000 pounds that were brought in. If you reduce the duty on starches so that still more starch will be brought in, it is still more important to cover all the different starches that are used in this country.

Of course, the committee understands thoroughly, as I have had the honor of serving with most of them, that my theory of this matter and the theory of the dominant party in the United States to-day are not in entire harmony. In other words, I believe in protection as protection, and the people have decided that they prefer a little change in that respect, and I am not fighting against the change.

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I insert these letters here. There is no use to take the time of the committee reading them; but I want to say, Mr. Chairman, in conclusion, that these letters, and the evidence that is submitted in the brief attached, conclusively show, to my mind, that the food products are the flake and pearl preparations only, while the testimony of all authorities proves that the flours are sold exclusively as starches, and I would respectfully ask that the free list be changed so as to omit the words "sago and tapioca flours," and the insertion of these words, assuming the paragraphs are the same: No. 660, "Sago, when in pearl or flake form, as sold for food"; and paragraph 685, "Tapioca, cassava or cassady, when in pearl or flake form, as sold for food," or some equivalent phrases, because it is a well-known fact that all sago and tapioca sold as food in this country are in these forms.

Mr. JAMES. That would admit them free?

Mr. HULL. That would admit them free. In other words, I want to admit the food products free; I am perfectly willing to admit them free. They are not made in this country, and if you levy a tax I think it would be largely a tax on the property, without any corresponding benefit to the people of the United States.

Mr. HILL. Mr. Hull, won't you tell what the difference is between corn starch and these other starches in effectiveness and use and so on? Are they used for separate purposes entirely or can they be used concurrently?

Mr. HULL. They are used largely concurrently; and I will say, Mr. Hill, that so far as these sagos and tapiocas for food purposes are concerned, they can be made so that no one—hardly an expert—can tell the difference between our products and the imported product; and Germany is sending tapioca to us now made from potatoes.

Mr. HILL. The only difference is that the tapioca, which seems to be the larger amount—72,000,000 as against 8,000,000 of sago—can be used as a substitute for cornstarch?

Mr. HULL. It can be used.

Mr. HILL. Or potato starch?

Mr. HULL. Yes.

Mr. HILL. Then which is the better, cornstarch or—

Mr. HULL. I do not know. I know that they are used interchangeably, and I know that the parties in these offer to the trade that I quote insist that these flours are better starches than any, except potato starch.

Mr. HILL. What I want to get at is this: The cornstarch in the form of flour is used as food?

Mr. HULL. Yes.

Mr. HILL. Making blanchmanges and things of that kind?

Mr. HULL. But it is a special preparation or flour.

Mr. HILL. Can tapioca flour be used the same way?

Mr. HULL. I think not; at least it never is used. I can not find any groceryman, or any evidence any place, that any of the flours are ever used as food, and in all the letters that we could get hold of from the importers of tapioca and sago flours they advocate their use only as starches; never describe them as foods.

Mr. Chairman, our only excuse for submitting as full a brief on the question of sago and tapioca flours as I do is the fact that it has

PARAGRAPH 689—TAPIOCA FLOUR.

been held on the free list for some years, as I conceive, through a misunderstanding, and that the importance of the subject justifies the fullness of the brief.

I thank you, gentlemen, very heartily for your courtesy in hearing me through.

The CHAIRMAN. We will be glad to consider your brief.

The briefs, with their exhibits, as submitted by Mr. Hull are as follows:

JANUARY 30, 1913.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: The industry which we represent desires to draw the attention of your honorable committee to the necessity for some provisions amongst the administrative features of the tariff for—

(a) The prevention of dumping by foreign countries which are already provided with favorable arrangements for the exportation of their surpluses.

(b) The penalization, preferably by countervailing duties, upon imports of corn products and similar products originating in countries which grant to their industries producing these products bounties or the equivalent of bounties upon their exportation from such countries.

Inasmuch as we feel that the administrative features of the present act are to be carefully gone over by your honorable committee with respect to similar requests and suggestions emanating from other duties like our own, we make no specific recommendation as to the incorporation of any particular wording in the administrative feature of the act, but simply attach hereto, as an example of provisions made in other countries, that section of the Canadian law with reference to dumping and a copy of the French act with reference to what we consider an equivalent of bounty-fed exports of such products.

We believe that these matters will doubtless have had your careful consideration without these suggestions, yet we commend them to your careful attention, and beg to remain,

Yours, most respectfully,

COMMITTEE OF MANUFACTURERS OF CORN PRODUCTS,
By HULL & REEVE.

Chapter 11. act of April 12, 1907: An act respecting the duties of customs. This act may be cited as the customs tariff, 1907.

SEC. 6. In the case of articles exported to Canada of a class or kind made or produced in Canada, if the export or actual selling price to an importer in Canada is less than the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to Canada at the time of its exportation to Canada, there shall, in addition to the duties otherwise established, be levied, collected, and paid on such article, on its importation into Canada, a special duty (or dumping duty) equal to the difference between the said selling price of the article for export and the said fair market value thereof for home consumption; and such special duty (or dumping duty) shall be levied, collected, and paid on such article, although it is not otherwise dutiable: *Provided*, That the said special duty shall not exceed 15 per cent ad valorem in any case: *Provided also*, That the following goods shall be exempt from such special duty, viz: (a) Goods whereon the duties otherwise established are equal to 50 per cent ad valorem; (b) goods of a class subject to excise duty in Canada; (c) sugar refined in the United Kingdom; (d) binder twine or twine for harvest binders manufactured from New Zealand hemp, ixtle or tampico fiber, sisal grass, or sunn, or a mixture of any two or more of them, of single ply and measuring not exceeding 600 feet to a pound: *Provided further*, That excise duties shall be disregarded in estimating the market value of goods for the purposes of special duty when the goods are entitled to entry under the British preferential tariff.

2. "Export price" or "selling price" in this section shall be held to mean and include the exporter's price for the goods, exclusive of all charges thereon after their shipment from the place whence exported directly to Canada.

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3. If at any time it appears to the satisfaction of the governor in council, on a report from the minister of customs, that the payment of the special duty by this section provided for is being evaded by the shipment of goods on consignment without sale prior to such shipment, the governor in council may in any case, or class of cases, authorize such action as is deemed necessary to collect on such goods, or any of them, the same special duty as if the goods had been sold to an importer in Canada prior to their shipment to Canada.

4. If the full amount of any special duty of customs is not paid on goods imported, the customs entry thereof shall be amended and the deficiency paid upon the demand of the collector of customs.

5. The minister of customs may make such regulations as are deemed necessary for carrying out the provisions of this section and for the enforcement thereof.

6. Such regulations may provide for the temporary exemption from special duty of any article or class of articles when it is established to the satisfaction of the minister of customs that such articles are not made or sold in Canada in substantial quantities and offered for sale to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade.

7. Such regulations may also provide for the exemption from special duty of any article when the difference between the fair market value and the selling price thereof to the importer, as aforesaid, amounts only to a small percentage of its fair market value.

DRAWBACK ON CORN PRODUCTS.

JANUARY 30, 1913.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: The corn-products industry of the United States competes for its share of the foreign business with other countries producing corn and some other countries which levy no duty upon imported corn, and still other countries which, while having a duty upon corn, also encourage their manufacturers by means of liberal drawbacks. In some instances these drawbacks are equivalent to a bounty, and, as an example, we cite the attached extract from the French regulations covering the export of corn products made from dutiable imported corn. France only requires the exportation of a specified quantity of principal product (estimated to be a normal yield) by means of which the manufacturer obtains remission of the full amount of duty paid on the imported corn. While France may be more liberal than some other countries, it can be positively stated that her plan is the usual basis of arriving at such arrangement for drawback in our line of business in most foreign countries. They do not require the exportation of the by-products unless those by-products are also dutiable as such when entering those countries.

The administrative features of the present tariff are not specific and grant no discretion to the Treasury Department, so that we are obliged at present to export not only the principal product but all of the by-products, each in its exact proportion as contained in the imported corn. It is also required that the corn imported for reexportation in the form of products shall be kept separate and passed through the process without the addition of any product obtained from domestic corn. We submit that this is burdensome and expensive, and hardly repays the risk of importing under drawback, even though at times it is absolutely essential in order to maintain our share of the foreign trade against these more favorable practices allowed to the manufacturers in other countries.

We should explain here the hardships which these restrictions create. The process is continuous and the foreign corn can not be kept separate from the domestic corn, hence we are obliged to close a factory to run out the domestic product and operate wholly upon foreign corn until a specific arrival of foreign corn is consumed. This means an idle factory for a day or two and the entire factory incapable of making deliveries to the domestic trade during the time of its operating on the foreign corn. This, we submit, is a needless hardship which benefits no one and is only created by reason of the strict wording of section 25 in the administrative part of the present tariff.

We make the following requests:

1. That we be not obliged to export the by-products obtained in the manufacture of cornstarch, corn sirup, and corn sugar from dutiable corn imported

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and declared for reexportation in the form of products, because none of those by-products are dutiable under the present tariff.

2. That 99 per cent of the duty paid upon a bushel of corn imported and declared for reexportation in the form of products should be rebated to the manufacturer upon the exportation of only a reasonably fair quantity of the principal product—cornstarch, corn sirup, or corn sugar—obtainable from such corn, meaning a fair average yield of such products.

3. That whatever may be required by the Treasury Department while having supervision over the imported corn and the exported products, they be authorized to grant sufficient latitude to the manufacturer so that the normal operations of the factory be not seriously interfered with, meaning that the exact identity of the products of the imported corn need not be maintained throughout the entire process.

We submit that the present regulations are wholly unnecessary from any standpoint; that they accomplish nothing that would not just as well be accomplished under the more liberal regulations which we have suggested. We submit further that the more liberal regulations which we have suggested create no hardship whatever upon anyone in this country, and we can not conceive of anyone possibly finding any objection to them. We submit finally that the only result that will be created by following our suggestions and establishing these more liberal regulations is that the industry will be thereby enabled to compete in foreign countries with foreign manufacturers who would be at the same time using the same corn or other foreign corn competing with it and under conditions as favorable or more favorable than those asked for.

Yours, most respectfully,

COMMITTEE OF MANUFACTURERS OF CORN PRODUCTS,
By HULL & REEVE.

TRANSLATION OF ADMINISTRATIVE FEATURES OF THE LAW OF FRANCE RELATING TO
DRAWBACKS UPON THE EXPORTATION OF CORN PRODUCTS.

Article 229 of the French customs rules and regulations.

Merchandise admissible for temporary importation:

Corn used in the production of glucose destined for export, law 31, March, 1896; decree of November 25, 1896; yield, 50 kilos of glucose per 100 kilos corn; time allowed for reexportation, 4 months.

Corn used in the production of starch destined for export, decree of February 26, 1891; law of January 11, 1892; decree of February 18, 1893; decree of March 9, 1902; yield, 47 per cent; time allowed for reexportation, 4 months.

NOTICE.—The starch must be of merchantable quality, dry and in good condition; either in powdered form, crystals, or pieces.

NOTE.—In explanation of the above, and to show that same is of the nature of a bounty, it is stated that—

(a) 100 kilos of corn can yield as much as 71 kilos (71 per cent) of certain grades of commercial glucose.

(b) 100 kilos of corn can yield as much as 62 kilos (62 per cent) of certain grades of commercial starch.

WASHINGTON, D. C., January 30, 1913.

Messrs. HULL & REEVE,

Washington, D. C.

DEAR SIR: Three papers of tapioca and sago delivered to you to-day are what I sell for food purposes: One package Premier flake, 10 cents; one package Pearl (Premier), 10 cents; one package Bennett, Simpson & Co.'s genuine sago, 15 cents.

Yours, truly,

JOHN H. MAGRUDER.

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WASHINGTON, D. C., *January 30, 1913.*

MESSRS. HULL & REEVE,
Washington, D. C.

GENTS: Herewith please find four packages of different kinds of sago and tapioca, viz: One of pearl tapioca, generally known as sago; one of small pearl tapioca, generally known as sago; one of granulated tapioca; one of flake tapioca; and one instantaneous tapioca.

These are the only known kinds of sago or tapioca we know of or have sale for.

N. W. BURCHELL.

WASHINGTON, D. C., *June 23, 1909.*

One-half pound flake tapioca, bulk, at 10 cents, 5 cents.

One-half pound pearl sago, bulk, at 10 cents, 5 cents.

One pound package pearl tapioca, 10 cents.

One pound package pearl sago, 10 cents.

These are the only forms of sago and tapioca that we find are sold for food purposes.

Respectfully,

(Signed) G. G. CORNWELL & SON.

NEW YORK, *January 29, 1913.*

MESSRS. HULL & REEVE,

Rooms 506, 507, and 508 Metropolitan Bank Building,

Washington, D. C.

GENTLEMEN: In the interest of the committee of manufacturers of corn products of the United States we make the following statements:

We are engaged in the distribution of all classes of starch, particularly to the textile and kindred industries throughout the United States, and we have had considerable experience in the importation of starches, particularly potato starch, which we only sell in competition with American starches at times when the domestic crop is short or of high price. The most serious competitor which we have in the line of imported starches is found in the so-called sago flour and tapioca flour, which are imported in large quantities from the East Indies and, we submit, are wrongfully entered free of duty, since they are, to our certain knowledge, just as much starches as the potato starch which we import or the cornstarch of American production which we also distribute, and they can only be used in the identical manner in which all of these starches are used.

We do not think there should be any considerable reduction in the duty upon starches, because we have found that the price at which we can sell foreign potato starch, including the duty, is not the principal factor, since we are obliged to admit that we only import potato starch, as above stated, when there is a short crop in the United States, and then we do not find our customers objecting to the price. However, we also believe that whatever rate of duty exists upon starch, certainly it is unfair to us, as also to all of the manufacturers in the United States, that articles like sago flour and tapioca flour, which we are in position to prove are starches, should enter at any lesser rate of duty than even potato starch, which now carries a cent and a half a pound duty, whereas other starches carry a cent a pound.

Replying to that part regarding the character and appearance of sago flour and tapioca flour, as compared with the food forms of sago and tapioca, we state without hesitancy that there can not possibly be any confusion between the two. We are thoroughly familiar with the trade. The forms known as flours are identical in appearance with the general line of starches. The forms of sago and tapioca known as pearl and flake are absolutely different, and we shall be pleased to make affidavit to the effect that these are the only forms of sago and tapioca which we have ever known to be used for food in the United States.

We are sending you some samples of the different grades of sago flour and tapioca flour, as also some samples of some of the other starches which we import as well as buy in this country for distribution to the same class of trade.

Yours, respectfully,

F. ROSE & Co.,
By FREDERICK ROSE.

PARAGRAPH 689—TAPIOCA FLOUR.

BRIEF ON SAGO AND TAPIOCA FLOURS.

JANUARY 30, 1913.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

GENTLEMEN: We represent the following companies, which comprise practically all of the manufacturers of cornstarches in the United States, viz:

American Maize Products Co., Roby, Ind.; Clinton Sugar Refining Co., Clinton, Iowa; Corn Products Refining Co., Argo, Waukegan, Granite City, and Pekin, Ill., Davenport, Iowa, and Edgewater, N. J.; Douglas & Co., Cedar Rapids, Iowa; J. C. Hubinger Bros. Co., Keokuk, Iowa; Huron Milling Co., Harbor Beach, Mich.; National Starch Co., Oswego, N. Y.; Piel Bros. Starch Co., Indianapolis, Ind.; A. E. Staley Manufacturing Co., Decatur, Ill.; Union Starch & Refining Co., Edinburg, Ind.

On their behalf we request that sago flour and tapioca flour be removed from the free list and made dutiable as starch. We have already set forth a part of the arguments in our general brief under "Agricultural products." We present herewith our further arguments classified under headings Nos. 1-10, together with exhibits supporting our contentions, etc., and respectfully ask your careful consideration of same.

Respectfully submitted.

COMMITTEE OF MANUFACTURERS OF CORN PRODUCTS,
By HULL & REEVE.

ARGUMENT No. 1.

SAGO FLOUR AND TAPIOCA FLOUR ARE STARCHES.

A flour is understood to be the ground or powdered substance obtained by a dry mechanical action upon a cereal, whereas starch is understood, at least commercially, to be a preparation of a cereal or other starch-yielding raw material usually, if not entirely, by wet means or washing. Dictionary definitions of "starch" and "flour" are of some assistance in arriving at whether a product is really a flour, and we attach as Exhibit A quotations from some of the best authorities. The term "a starch" and the word "starches" should not be confused with definitions for "starch," since the latter may be described by a chemist in a technical way as referring to that part of any starchy material known in chemistry as a carbohydrate. We trust, therefore, that this question of nomenclature may be determined entirely with respect to commercial usage.

One of the best examples that we can cite to show the chances for error in understanding is the employment of the words "corn flour" in the United Kingdom for the identical product which we in this country call "cornstarch." In America all forms of starches play such a distinctive part in each of their uses that it should be a simple matter to determine whether a product is a starch by the service which it performs when it substitutes in whole or in part an acknowledged starch.

We attach herewith exhibits, lettered from "B" to "H," supporting our contention that both sago flour and tapioca flour are used for identically the same purposes as known starches. We submit that such substitution and the fact that they are adapted for further substitution are the best proofs that they are starches. Not all of the sago flour and not all of the tapioca flour that come into this country free of duty must necessarily be employed in these same directions in order to merit the name of "starches." Doubtless some of the tapioca flour that comes into this country free of duty may not be employed in the identical directions which we have described, but we submit that wherever it goes and for whatever purpose it is used that it can be and is only starch.

ARGUMENT No. 2.

SAGO FLOUR AND TAPIOCA FLOUR, AS IMPORTED, NOT CHANGED OR MODIFIED, BEING STARCHES, ARE COMPETITIVE WITH ALL STARCHES MADE IN THE UNITED STATES FROM PRODUCTS OF OUR SOIL.

Starches and all preparations fit for use as starch are made from the products of the soil, and nearly all of the known starches or preparations fit

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for use as starch are produced or can be produced from our soil, and if there happens to be one or two starches, like sago and tapioca, which are not produced from American soil, it does not follow that they find uses which are so peculiar that they do not supplant American-made starches. In fact, fair reasoning and attention to records will prove that sago and tapioca starches (so-called flours) and all similar products more or less compete with each other. In other words, they are all of similar nature, have common characteristics, and price has much to do with the selection of one or the other for a given purpose. All products of our soil, such as wheat, corn, potatoes, rice, etc., and from which starches are made, are proposed and do now pay duties, and all manufactures from such products, whether starches or other products, are proposed and do now pay duties relatively higher than the duty on raw material; but the intent of the tariff fails of its entire effect when sago flour and tapioca flour, which compete with and substitute such manufactures, enter free of duty.

ARGUMENT No. 3.

SAGO FLOUR AND TAPIOCA FLOUR, LIKE ALL OTHER STARCHES, ARE USED INTERCHANGEABLY FOR STARCHING, SIZING, FILLING, IN LAUNDRY WORK, FOR EDIBLE PURPOSES, AND FOR MANY OTHER PURPOSES.

It is not contended that every grade, quality, or form of every starch directly competes or substitutes every grade of another starch, but they are generally substituted one for another in consideration of their slight differences, together with their relative cost. The uses for starches of all kinds are very numerous, and but few of their uses are known to the lay mind. It is not fair to pass judgment upon such a general line of products, which are put to so many and interchangeable uses, without making a deep study of the entire category or else providing fairly for each and every one of the starches in a similar manner, because they are so similar and so apt to be interchanged one with the other. If a man contends that he manufactures a certain grade of a product, for which he requires in order to get perfection a certain grade of a certain kind of starch, and even if he may have been encouraged to build up a trade for his finished product, our Government can hardly be justly importuned to arrange so that a special grade of starch can be imported free into this country, so that a particular manufacturer should enjoy an extra profit and be encouraged in the belief that nowhere can be found among our numerous grades of numerous American starches one which could at least be successfully made to substitute.

We grant that sago flour has not quite so many different uses in the United States as tapioca flour, probably because the foreign industry has not been as well developed; so it is probably fair to say that practically all of the sago flour which is now being imported into this country free of duty—and it is generally conceded that all of the sago entered through the customs is in the form of sago flour—is used principally in the New England cotton-mills for starching, filling, stiffening, sizing, etc.

We attach testimony, Exhibit I, giving testimony of some of the users of sago flour. We regret that we can not supply more actual testimony of New England mill users of this sago starch, but the information can be obtained, notwithstanding that these mills are very anxious to continue these free-of-duty starches and are not inclined to favor us with information which would tend to defeat their purpose.

ARGUMENT No. 4.

SAGO FLOUR AND TAPIOCA FLOUR AND ALL OTHER IMPORTED STARCHES MUST SUBSTITUTE SOME AMERICAN-PRODUCED STARCH.

The imported starches, viz, potato starch (sometimes called potato flour) and so-called sago flour and tapioca flour are the only foreign starches imported to an appreciable extent. Potato starch is only imported in large quantities when we have a potato crop failure and notwithstanding the duty, but the others are imported in increasing quantities continuously because they are free of duty. When we say they are substituted, we mean it roughly. The value of any starch is largely measured by its analysis, and there is a variation in the analyses of different kinds of starch. There is likely to be as much

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variance between two grades of a starch from a given raw material as there is between two given starches from different raw materials. Thus we are entitled to say they substitute, roughly, pound for pound, American-made starches.

ARGUMENT No. 5.

SAGO FLOUR AND TAPIOCA FLOUR ARE LARGELY IMPORTED, AND THE VOLUME IS INCREASING AND, IF LEFT FREE OF DUTY, THEY WILL CONTINUE INCREASING.

We attach herewith Exhibit J, a copy of a report of the Bureau of Foreign and Domestic Commerce, Department of Commerce and Labor, showing imports of all forms of sago and tapioca for all of the years from 1882 to 1911, inclusive, and we invite your careful consideration of same. Unfortunately our Government records are not so separated that we can prove exactly (by them) the continued increase in the importation of sago flour and tapioca flour, since they have been either rightfully or wrongfully admitted free, but, through knowledge of the trade and by reason of the fact that the majority of all importations of sago and tapioca products have been in the form of flour (so called), we submit that the use of these flours (so called) has increased in proportion to the enormous increases of total importations of sago and tapioca products, from 11,626,706 pounds in 1899 to 72,680,218 pounds in 1911. These importations would have been still greater had it not been for the fact that there has been considerable uncertainty as to the continued interpretation of the intent of our tariff. Legislation over the interpretation of the paragraphs relating to these products has been rife during the past several years. (See the famous sago flour case of *Littlejohn v. Parsons* and the California case on tapioca flour.) Also consider that tariff reform has been agitated for some time back, and it is reasonable that foreign interests would hesitate to enlarge present factories or create new ones to take care of American wants, until surety of continued free entry would be established. We are informed that with the establishment of a fixed declaration of free entry to sago and tapioca flour more new industries would be established abroad of vast proportions to provide for further encroachments upon the present trade in American starch by means of continued increased shipments of sago and tapioca flours to this country. The reason for this encroachment is apparent when we recite the conditions of cheap labor and the readily and cheaply obtainable raw materials in the Straits Settlements.

ARGUMENT No. 6.

SAGO FLOUR AND TAPIOCA FLOUR AND ALL KINDRED PRODUCTS ARE DUTIABLE AT THE SAME RATE, OR ABOUT EQUIVALENT RATES, WITH STARCHES IN ALL IMPORTANT FOREIGN COUNTRIES

With reference to the attitude adopted by the governments of foreign countries which produce starches principally from their own soils, we beg to recite the conditions existing in the majority of them:

Canada.—In item 39A. general tariff: Starches, rice flour, sago flour, and tapioca flour, 1 cent per pound.

Germany.—Starch, 14 marks per 100 kilos (\$1.50 per 100 pounds); sago and tapioca flour, whether in crude state or as flour (mehl), 15 marks per 100 kilos (\$1.62 per 100 pounds).

France.—Starch, 18 francs per 100 kilos (\$1.58 per 100 pounds); sago, 11 francs per 100 kilos (\$0.96 per 100 pounds); tapioca, raw, 12 francs per 100 kilos (\$1.04 per 100 pounds); tapioca, granulated, 14 francs per 100 kilos (\$1.22 per 100 pounds).

Bulgaria.—Starch, sago, and tapioca, 15 francs per 100 kilos (\$1.31 per 100 pounds).

Roumania.—Starch, sago, and tapioca, 12 leu per 100 kilos (\$1.04 per 100 pounds).

Italy.—Starches, 6 to 15 liras per 100 kilos, according to grade (\$0.52½ to \$1.31 per 100 pounds); sago and tapioca flour, 6 liras per 100 kilos (\$0.52½ per 100 pounds).

Russia.—All kinds of starch, including potato flour, sago, etc., 2.10 rubles per pood (\$2.70 per 100 pounds).

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Argentina.—Starch of all kinds, 8 pesos per 100 kilos (\$3.50 per 100 pounds).
Austria.—Starch, 16 kroner per 100 kilos (\$1.45 per 100 pounds); sago and tapioca, 30 kroner per 100 kilos (\$2.73 per 100 pounds).

ARGUMENT No. 7.

SAGO FLOUR AND TAPIOCA FLOUR ARE CHEAPLY PRODUCED ABROAD IN ENORMOUS QUANTITIES AND THREATEN THE AMERICAN INDUSTRY.

We attach a statement (Exhibit K) showing the starch production of the United States as compared with the estimated world's production of starches, including sago flour and tapioca flour, which represent a large part, roughly, 25 per cent of the total. American cornstarch is estimated at but 15 per cent of that total. This statement also shows by estimate that sago and tapioca flours are mostly applied in the United States to one class of industry and to the extent of, roughly, 33 per cent of the consumption of starch in that industry. A review of this world's production of starches, which are and can be made from so many raw materials, will show that there is plenty of need to avoid encouraging foreign producers of such starches as sago flour and tapioca flour. They are made from readily obtainable large sources of supply of raw materials by cheap (mostly coolie) labor. The benefits derived from the free entry of sago and tapioca flours which are used for starching, sizing, and filling (and those are the principal uses to which they are put) are not so broad that the possible advantages gained by their cheapness at times are of moment to the people at large, whereas the continued substitution of American starches means, to start with, discouragement to national industries of importance, decrease in their production and loss to labor, and reduction of the industrial uses of the raw materials of our land.

ARGUMENT No. 8.

SAGO FLOUR AND TAPIOCA FLOUR ARE ADMITTED FREE OF DUTY THROUGH ERROR OR MISUNDERSTANDING.

We feel that we have now shown these so-called flours to be starches, or at least preparations fit for use as starch, and that they should be removed from the free list and specifically placed in the starch schedule so as to be dutiable at the starch rate. We suggest the following wording for the paragraphs in the free list:

No. 664. "Sago, when in pearl or flake form, as sold for food"; and paragraph 689, "Tapioca, cassava, or cassady, when in pearl or flake form, as sold for food," or some equivalent phrases, because it is a well-known fact that all sago and tapioca sold as food in this country are in those forms.

In order that there may be no confusion as to the administration of the law, it being clearly intended that sago flour and tapioca flour are to be dutiable as starch, we suggest that paragraph 296 should read, "Starch made from potatoes, 1½ cents per pound; all other starch, including sago flour and tapioca flour and all preparations, from whatever substance produced, fit for use as starch, 1 cent per pound."

The specific mention of these so-called flours in the starch paragraph, especially at the time of their removal from the free list, will clearly show the intention and remove all chance of confusion in the administration of the law. The starch paragraph already reads "all preparations, from whatever substance obtained, fit for use as starch," dutiable. The Government has already spent considerable money in different efforts to make these so-called flours pay duty, and they have only been defeated through technical errors in the wording of the law, or at least through confusion in the interpretation of the wording, because the intent of those responsible for the making of the law or the alteration in it is clearly that they should fall in the starch category and pay duty as starches. We attach as exhibits extracts from hearings and debates in Congress and suits of the United States Government substantiating this fact. Other confusions have also occurred in connection with these troublesome paragraphs in the free list, to which we draw attention with suggestions.

PARAGRAPH 689—TAPIOCA FLOUR.

ARGUMENT No. 9.

SAGO FLOUR AND TAPIOCA FLOUR ARE NOT THE CRUDE FORMS OF SAGO AND TAPIOCA.

Please note that our suggested rewording of the paragraphs in the free list does not include either the words "sago crude" or "tapioca crude," nor, in fact, provide in any way for any other forms of sago and tapioca than the well-known food forms, pearl and flake. Here again we wish to draw attention to the difficulties which the United States Government have had in the past in the matter of confusion over what crude sago and crude tapiocas mean, the result being, as usual, that the Government has lost its cases on purely technical grounds, because no real crude sago or tapioca has entered the country commercially. If reference is made to the famous Sago Flour case, it will be seen very clearly how this confusion came about and the real intent of the tariff defeated. We attach as exhibits extracts from different hearing and copies of some letters from investigators which will help to prove three things:

(a) That there are crude forms of both sago and tapioca; as, for instance, in the case of sago the form in which the rough pith of the sago palm is transported from the interior, where it is produced, to the seaboard, before it is prepared for export, and in the case of tapioca or cassava the roots or tubers are certainly the raw material or the crude tapioca.

(b) That these crude forms, nor any other crude form of sago and tapioca, have ever been commercially imported into the United States, and that low grades of the flour forms have been therefore wrongly declared as crude.

(c) That attempts have also been made to build up evidence that there had been, or that at least it was possible to bring in something else which might be referred to as the crude forms of these products.

We believe that it has been well proven to your committee, or at least to the Board of General Appraisers, that there are no cruder forms of sago and tapioca entering the United States than the flour forms. An examination of the Treasury records will also show that during the time when sago flour and tapioca flour were not specifically mentioned in the free list there were large importations, of the former at least, which escaped duty only because they came through on the plea that they were the crudest forms of the product known commercially. This, we submit, is an absolute farce. There is certainly no need to provide for the words "sago, crude" and "tapioca, crude" anywhere in the tariff. There is no one here that really wants those forms; they are not readily transportable; there is no industry which would be benefited by having a supply of such; and, in fact, the inclusion of the words "sago, crude" and "tapioca, crude" in the tariff anywhere will only continue to confuse the issue. Finally, we submit that there is not the slightest danger of eliminating any of the food forms of sago and tapioca by the failure to include the words "sago, crude" and "tapioca, crude" in the free list.

ARGUMENT No. 10.

SAGO AND TAPIOCA IN ALL OF THEIR FORMS COULD WELL BE DUTIABLE WITHOUT DISADVANTAGE TO THE CONSUMER AND WITH AN APPRECIABLE REVENUE TO THE GOVERNMENT.

We have not requested anywhere in any of our briefs that the food forms of sago and tapioca should be made dutiable, because we believe that there exists a feeling against such an action. This was most clearly shown at the time of the debates in the Senate in connection with the Payne-Aldrich bill, when it was also shown quite clearly that an agreement had been reached that none but the food forms of sago and tapioca would be left in the free list. We attach a copy of the debate as "Exhibit L." We think that there is but one reason why the understanding arrived at in the United States Senate was not carried out, namely, the difficulty to find a wording which would so carefully provide for the exclusion of sago flour and tapioca flour from the free list as to defeat those who had a reason why they should not be able to find such a satisfactory wording. From a study of the records it will be noted that certain prominent men at least were under the erroneous impression that sago flour and tapioca flour were distributed as food in the United States. We would modestly suggest, further, that this idea of retaining any form of sago and tapioca in the

PARAGRAPH 689—TAPIOCA FLOUR.

free list is pretty much of a hoax, because the idea has undoubtedly been really clung to in order to advocate the free entry of something that was of more interest than the retention of the food forms on the free list for the benefit of the public.

In the first place, the food forms of sago and tapioca are certainly in the luxury class, as evidenced by the fact that the consumer pays a relatively high price for same as compared with most other necessary foods; secondly, while it is a fact that sago is not grown at all in the United States and tapioca to no great extent, it is quite feasible for plenty of tapioca to be raised in this country to take care of the food requirements, and it is also possible to make products identical with the pearl forms of both sago and tapioca from any farinaceous material, and particularly from our home-grown corn and potatoes. As evidence of this statement we wish to cite the importations of so-called German sago, which have paid duty recently as starch because the little pearls which are known in this country as German sago are made in Germany from potatoes.

While we are not requesting that the food forms of sago and tapioca be made dutiable, we do suggest that if there should happen to be any further confusion in the matter of administration, in the proper collection of the duties justly due to the United States Government, that the whole question of confusion can be most readily removed by placing a duty upon each of the forms and without detriment to any one. By reference to the table of imports, attached, it will also be seen what benefit the Government will then derive in the form of revenue from the importation of these products, which will undoubtedly continue to come in to a considerable extent, even if they should have to pay as high as a cent and a half a pound duty, which so-called German sago has been paying.

All of the following exhibits shown as extracts or quotations are taken from originals or authentic records in the possession of the witness or available and subject to the call of your committee:

EXHIBIT A.

DEFINITIONS OF "FLOUR" AND "STARCH" BY SOME OF THE HIGHEST AUTHORITIES.

Flour.—Finest quality of meal; also in modern use the ordinary name of the meal or farina of wheat, as opposed to that obtained from other grain. The finest soft powder obtained by grinding or triturating seeds, farinaceous roots, or other alimentary substances. Any finely powdered dry substance. They make flour also of fish dried in the sun. (a) 1660, F. Brooke Le Blanc's Trav. 1880, W. H. Wardell in Encycl. Brit., XI, 323. The crystallized saltpeter having almost the appearance of snow and technically quality of flour and is raked into the washing cistern. (Murray's Dictionary.)

Finely ground meal of wheat or hence of any other grain; a fine part of meal separated by bolting; a fine and soft powder of any substance; as flour of emery, flour of mustard. The chief constituents of wheat flour are starch, gluten, water, fat, and ash. In ordinary American milling the grades are (1) first patent; (2) second patent; (3) first clear; (4) second clear; (5) red dog. Ordinary or straight flour is equivalent to a mixture of the first three; the fifth or lowest grade is used chiefly in the arts and for feeding animals. The remainder of the wheat kernel constitutes bran and shorts. For Graham flour the entire kernel is used, and for entire wheat flour all but the coarser bran; these have about the same nutritive value as straight or patent flour, but are less thoroughly digestible. (Webster's Dictionary.)

The edible part of grain reduced to powder; the finer part of meal separated from the bran by sifting or bolting. (Wooster's Dictionary.)

Starch.—A white, odorless, tasteless, granular, or powdery carbohydrate ($C_6H_{10}O_5$)_x widely disseminated among plants, especially in seeds, bulbs, and tubers. It is a most important element of food and is used in making commercial glucose; for stiffening linen, in making paste, etc.; is formed in the plant by photosynthetic activity, and is always to be found as minute grains, the chloroplasts, when the plant is exposed to light, and deposited by the leucoplasts in

PARAGRAPH 689—TAPIOCA FLOUR.

large granules of organized structure, which serve as reserve food. In the United States maize is the chief commercial source; in Europe the potato. (Webster's Dictionary.)

Starch is insoluble in water, alcohol, or ether. A vegetable substance used to stiffen and formerly also to color linen or other cloth. (Wooster's Dictionary.)

EXHIBIT B.

SAGO FLOUR AND TAPIOCA FLOUR ARE STARCHES.

Extracts taken from the records of United States Supreme Court, October term, 1899, before Justice Peckham, and referring particularly to tapioca flour:

Page 2, line 9 (tapioca flour). "Is nearly pure starch."

Page 2, lines 15-16. "Who uses the flour as starch."

Page 2, lines 20-21. "Tapioca flour is also used in the Eastern States by calico printers and carpet manufacturers to thicken colors and in the manufacture of a substitute for gum arabic and other gums. It is also sometimes used for sizing cotton goods."

Page 3, lines 14-15. "Although assuming it (tapioca flour) to be fit for use as starch it is nevertheless tapioca, and tapioca in so many words is put on the free list."

Page 4, lines 18-19. "If fit and intended for such use as starch, why not fit for use as starch?"

Page 4, line 28. "The substance in question is not commercially known as starch."

Page 4, lines 38-40. "We think the language of that paragraph, 323, means any preparation which is so far fit for use as starch as to be commonly used or known as such or as a substitute therefor."

Page 4, lines 48-52. "The substance is used in the Eastern States for starch purposes by calico printers and carpet manufacturers to thicken colors. Also for bookbinding and in the manufacture of paper. Also for filling in painting."

Page 5, lines 18-21. "Many other flours might come in under the denomination of root flour which were not specially declared in the act to be free of duty, and the dropping of the root flours from the free list may relegate such flour to the dutiable list."

A part of Judge Peckham's opinion: "One of the forms of tapioca flour known to commerce is entered at the customhouse, San Francisco, as tapioca, sago, or root flour, which are all the same substance. The Chinese use the flour as a starch and to a slight extent for food purposes."

EXHIBIT C.

SAGO FLOUR AND TAPIOCA FLOUR ARE STARCHES.

Extracts from the present hearing before the Ways and Means Committee, 1913, by Charles Morningstar, of the firm of Charles Morningstar & Co., importers of starches in competition with American starches:

"If there is to be a duty at all on starches, we certainly do not think that the products made under the auspices of coolie labor in the Far East, such as tapioca, cassava, and sago, should have free entry into this country when the starches of the sturdy German and Dutch farmers are taxed 1½ cents per pound. Tapioca and cassava flour and starches, as also sago, should be taxed equally with all other starches coming into this country."

"Tapioca flour and starch, cassava flour and starch, and sago flour, all made under coolie-labor conditions, are now free."

"Tapioca flour and starch, as also cassava flour and starch, are chemically the same as any other starch, and so does sago fall under the category of starches."

"Why discriminate against starches manufactured under civilized and scientific auspices in favor of coolie-labor starches in the Far East?"

NOTE.—To anyone familiar with the trade it is apparent that Mr. Morningstar has not intended to say "tapioca flour and starch, cassava flour and starch," because they are all the same thing.

PARAGRAPH 689—TAPIOCA FLOUR.

EXHIBIT D.

SAGO FLOUR AND TAPIOCA FLOUR ARE STARCHES.

THE CONTINENTAL FINISHING Co.,
River Point, R. I., July 13, 1909.

E. B. WALDEN, G. S. M.,
Corn Products Refining Co., New York.

MY DEAR MR. WALDEN: In answer to your letter of recent date, in which you ask whether statements made by mill interests to the Finance Committee in Washington regarding tapioca and sago in its use in cotton mills, versus cornstarch, are true, I said to you some time ago that I had made exhaustive tests of sago and tapioca compared with cornstarch, and from my practical experience in finishing cotton goods I wish to say that all my demonstrations prove that sago and tapico in finishing replace cornstarch pound for pound and that cornstarch could be used to produce just as satisfactory results as either sago or tapioca.

(Signed) THE CONTINENTAL FINISHING Co.
L. P. PIERCE.

EXHIBIT E.

SAGO FLOUR AND TAPIOCA FLOUR REFERRED TO AS STARCHES.

Extracts from a foreign publication by Joseph Depierre; translated from the French:

"Finishing operations may be classed according to the results required.

"It is impossible and, besides, superfluous to enumerate the different styles of finish used to-day. There are more than 100 well-defined kinds.

"Substances employed in finishing: The quantity of products of all kinds used in finishing increases daily.

"Thickenings, in the proper sense of the word—that is to say, substances serving to stiffen tissues, to thicken them, in one word, to set them.

"Corn, wheat, maize, barley, chestnut, rice, acorn, potato, or farina; starches and diverse flours; arrowroot, salep, sago, tapioca, etc.

"Of all the substances used in finishing starch and its derivatives are those which play the greatest part. Starch has been known from time immemorial. Pliny speaks of its use in Chio. The first use of starch for sizing dates from about 800 B. C. Its use, however, was not very extensive. The use of starch in England dates from the first part of the sixteenth century.

"Starchy matter exists in manioc, in the medular part of the stem of the palm tree, in potatoes, in the cereal grains, barley, oats, wheat, maize, rye, etc.

"Sago comes from the pith of several palms of the Molucas, principally from the *Sagus rufia*, *farinifera*, and *Cycas circinalis*. It is met with in commerce in several forms: The reddish sago taploca, which yields in water a starchy matter, may be colored with iodine. The sago in pink or white granules, which yields nothing in cold water. The produce of the sago tree is considerable. Seven trees yield as much nutritive matter as a hectare of wheat and six times more than a hectare of potatoes.

"The Chinese of Singapore annually convert more than 20,000 tons of pith into flour. England alone receives thence more than 12,000,000 kilos.

"Tapioca, also called Moussache, Cipipa, or Cassava starch, is extracted from the root of different maniocs, largely cultivated in Africa, in the Indies, in Java, China, and elsewhere."

EXHIBIT F.

SAGO FLOUR AND TAPIOCA FLOUR ARE REFERRED TO AS STARCHES AND USED AS STARCHES.

Copy of a report of a starch salesman, dated June 2, 1909:

Name of mill, Ludlow Manufacturing Association; location, Ludlow, Mass.; name of buyer, Mr. Sturgis. Did you see him personally? Yes. Did you tele-

PARAGRAPH 689—TAPIOCA FLOUR.

phone him? ———. Why? ———. Stock on hand, 112 cars ours, ——— others. Quotation made, 2.44 Pearl; ——— Famous N. When again in market? ———. Sale, none. If no sale, Why? Sturgis says he is going to purchase a year's supply of tapioca. Corn is too high for his uses. I could get no further information from him regarding the use of starch on his jute warps.

EXHIBIT G.

EXTRACTS FROM CIRCULAR LETTERS ISSUED BY C. B. HUIET, OF CHARLESTON, S. C., AGENT FOR A FIRM OF IMPORTERS, SHOWING THAT SO-CALLED TAPIOCA FLOUR IS SOLD AS STARCH.

JANUARY 26, 1909.

We beg to announce that we are in position to furnish the very best tapioca starch imported from the island of Java, produced in a factory which cost over three-quarters of a million dollars. Heretofore tapioca starch has not been as uniform as the mills desired, because it was produced in a crude way. Now, there has been one of the best starch factories in the world erected on the island of Java, the product of which is imported by Stein, Hirsh & Co., of New York City. This product is unquestionably superior to cornstarch.

We are in a position to quote a first-class grade tapioca starch at practically the same price as is being asked for high-grade cornstarch. It is the purpose of our company to bring solid cargoes of tapioca starch to our South Atlantic and Gulf ports.

MARCH 18, 1909.

Our traveling men have been calling upon the various cotton mills throughout the southern territory, which we control as sales agents and distributors for Messrs. Stein, Hirsh & Co., of New York, and from the number of trial orders and inquiries which we have received I am satisfied a number of mills intend to displace the starch which they have been using and use the strictly high-grade imported tapioca and potato starches which we are offering.

Stein, Hirsh & Co. control the importation of tapioca starch produced by a large Dutch syndicate operating in the island of Java, who have several millions invested in the industry, one of the factories alone costing \$600,000. The latest improved machinery, careful handling and processing gives a product which is superior in every way to the very best cornstarch.

APRIL 21, 1909.

We are not in any way letting up on our campaign on the strictly fancy imported German potato and tapioca starches.

We absolutely control the sale and distribution of these importations of Stein, Hirsh & Co., of New York, who likewise control the importations of the best foreign factories.

Among the prominent southern cotton mills who have placed orders with us during the past few weeks for our imported potato and tapioca starches are: Drayton Cotton Mills (small trial order, then a car), Spartanburg, S. C.; Holt Morgan Mills, Fayetteville, N. C.; Delgade Mills, Wilmington, N. C.; Brogan Mills, Anderson, S. C.; Statesville Cotton Mills, Statesville, N. C.; Gaffney, S. C.; Planters Manufacturing Co., Oxford, Ala.; Newberry Cotton Mills, Newberry, S. C.; Altamaha Cotton Mills, Elon College, N. C.; Southern Cotton Mills, Hawkinsville, Ga.; Riverside Cotton Mills, Augusta, Ga.; Brookford Mills, Brookford, N. C.; Hamilton-Gerhardt Cotton Mills, Rockhill, S. C.

EXHIBIT H.

SAGO FLOUR AND TAPIOCA FLOUR USED AS STARCH.

Extracts from the testimony of John Bancroft, of the firm of Joseph Bancroft & Son, dyers, bleachers, and finishers of cotton goods, Wilmington, Del., at a hearing before Appraiser Fisher:

Q. You use in the production of your goods an article which is known as starch?

A. We do.

Q. Are there different kinds of starch that you use?

A. Yes; quite a variety.

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Q. Will you please name them?

A. Wheat starch, corn starch, potato starch, sago starch, known as sago flour. These are the principal starchy materials.

Q. Will you please state for what purpose you use it (sago flour) in your manufacture?

A. We are using it for starching or filling or stiffening—whatever term you may apply—both for yarns and cotton goods.

Q. What other starches do you use for the same purpose, or similar purposes, for which you use sago?

A. We have substituted cornstarch for the sago after the duty was put on.

Another witness at the same hearing, namely, W. H. Bolton, testified as follows:

Q. How do you use it (sago flour)?

A. We use it for starching purposes, the same way we use cornstarch.

Q. Can you get the same series of effects in all respects from sago flour, on all classes of goods, that you do from cornstarch?

A. On most classes of goods we can.

Extracts from testimony given by Mr. Weidenbach in the famous sago-flour case, *Littlejohn v. United States*:

Q. Did you ever know sago flour to be called by any name than sago flour?

A. Yes; frequently our customers have called it sago starch, and we have sold it as such.

Further, he says: "Potato starch simply is known under the name of potato flour."

Mr. Ralph L. Burbank, called as a witness in the sago-flour matter before Judge Lacombe on May 10, 1901, testified as follows:

"I consider that we could use tapioca identically with wheat or potato or any of the other starches, inasmuch as sago is similar to tapioca, and potato is similar to it also—the three are very similar."

EXHIBIT I.

Report of imports of all forms of sago and tapioca from the year 1882 to 1911, inclusive, as shown in the records of the Bureau of Foreign and Domestic Commerce, Department of Commerce and Labor, United States of America.

Year ending June—	Sago.	Tapioca, cassava, or cassady.	Total.
	<i>Pounds.</i>	<i>Pounds.</i>	<i>Pounds.</i>
1882.....	2,177,985	5,646,758	7,824,743
1883.....	1,916,135	7,344,846	9,260,981
1884.....	3,417,820	4,603,356	8,021,176
1885.....	2,082,531	5,555,497	7,638,028
1886.....	2,701,533	7,519,874	10,221,407
1887.....	2,730,405	4,885,808	7,616,213
1888.....	5,632,426	4,418,506	10,050,932
1889.....	4,930,662	5,045,314	9,975,976
1890.....	6,509,191	7,084,796	13,593,987
1891.....	3,970,504	8,147,585	12,118,089
1892.....	3,664,280	7,190,703	10,854,983
1893.....	5,310,039	9,277,825	14,587,864
1894.....	5,714,861	6,336,182	12,051,043
1895.....	6,105,525	13,283,512	19,389,037
1896.....	8,697,697	9,740,567	18,438,264
1897.....	7,562,581	9,852,926	17,415,507
1898.....	1,161,243	11,877,635	13,038,878
1899.....	142,995	11,483,711	11,626,706
1900.....	417,441	16,428,615	16,846,056
1901.....	51,991	17,411,046	17,463,037
1902.....	107,731	27,501,008	27,608,739
1903.....	4,330,656	32,596,086	36,926,742
1904.....	5,845,268	36,640,206	42,485,474
1905.....	4,769,673	34,982,549	39,752,222
1906.....	8,356,717	35,658,354	44,015,071
1907.....	9,746,344	43,647,731	53,394,075
1908.....	11,280,746	49,806,092	61,086,838
1909.....	16,796,780	56,363,629	73,160,409
1910.....	7,515,712	41,628,674	49,144,386
1911.....	11,765,106	60,915,112	72,680,218

PARAGRAPH 689—TAPIOCA FLOUR.

EXHIBIT J.

THE STARCH INDUSTRY OF THE UNITED STATES, WITH DEDUCTIONS FROM STATISTICS AS SHOWN IN BULLETIN 64 OF THE CENSUS OF MANUFACTURES, 1905.

There were 131 factories producing starch as principal and minor product. The 131 factories produced 196,074,530 pounds; the others, 161,930,496 pounds; a total of 358,005,026 pounds.

The number of employees recorded to produce the 196,074,530 pounds at the 131 factoris was 3,349 maximum, 2,070 minimum, 1803 average (for all time); hence the average number for entire starch production would be 3,254 employees working steadily and 110,000 pounds to the man.

The States producing the 196,074,530 pounds of starch at 131 factories were California, Connecticut, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, Texas, Vermont, and Wisconsin, and the remaining 161,930,496 pounds of starch were produced by Illinois, Connecticut, Michigan, Missouri, and New Jersey.

The starch from corn was principally produced by Connecticut, Illinois, Indiana, Iowa, Michigan, Missouri, Nebraska, New York, and New Jersey, while that from potatoes by Maine, Michigan, Minnesota, New York, and Wisconsin. The statistics do not show the division of the whole quantity by States, but the number of factories were as follows: California, 2; Connecticut, 4; Florida, 2; Illinois, 6; Indiana, 4; Iowa, 3; Maine, 65; Massachusetts, 1; Michigan, 5; Minnesota, 12; Missouri, 2; Nebraska, 1; New Jersey, 2; New York, 15; Ohio, 2; Pennsylvania, 2; Texas, 1; Wisconsin, 12; total, 141. It is estimated, however, that the principal States producing 358,005,026 pounds of starch were as follows: Illinois, 97,158,298 pounds; Indiana, 68,694,922 pounds; Iowa, 28,131,080 pounds; Maine, 15,454,787 pounds; Michigan, 9,162,054 pounds; Minnesota, 6,627,633 pounds; Missouri, 6,193,049 pounds; New Jersey, 58,579,149 pounds; New York, 33,186,913 pounds; Wisconsin, 4,925,858 pounds; all others, 29,891,278 pounds; total, 358,005,026 pounds.

The following are the best estimates which we can make up from our general knowledge of the starch production of the world:

Estimated world's production of all classes of starch, roughly, 2,500,000,000 pounds. Of the above sago flour and tapioca flour are estimated to contribute at least 600,000,000 pounds. The present production of all kinds of American starch, with due consideration for the above figures, is in the neighborhood of 360,000,000 pounds, and of this total production of American starch we estimate that there is consumed in the textile and kindred trades, wherein sago flour and tapioca flour mainly compete, 150,000,000 pounds, of which imported sago flour and tapioca flour contribute something like 50,000,000 pounds.

EXHIBIT K.

SHOWING THE CLEAR INTENT OF THE SENATE TO ONLY RETAIN IN THE FREE LIST THE FOOD FORMS OF SAGO AND TAPIOCA.

Extracts from debate, United States Senate, Saturday, June 12, 1909:

Mr. GALLINGER. Mr. President, some time ago a gentleman, who formerly resided in New Hampshire, called on me with a suggestion that he was about to engage in some other State in the manufacture of potato starch, and very much desired that sago flour should be put on the dutiable list. Without looking into the matter, I submitted a proposed amendment, which is in print. After that I made inquiry about the matter and found that sago flour is used largely in our manufactures, as well as in the manufacture of oilcloth and linoleum.

Mr. ALDRICH. But sago, crude, has been held by the customs officers and by all the decisions to include sago flour.

We did not use one single pound for starch, in my judgment. Sago flour and tapioca flour are used for food.

Mr. CUMMINS. The men who are engaged in making starch tell me that the sago flour, especially, is used for starch, and is used in competition with the starch made in the United States.

PARAGRAPH 689—TAPIOCA FLOUR.

Mr. ALDRICH. Does the Senator think that it is a proper application of the protective principle to put a prohibitory duty upon an article which can not be produced in the United States to keep it from competition with another article that is produced in the United States?

Mr. CUMMINS. Mr. President, the question of the Senator from Rhode Island is very misleading. It is true that sago can not be produced in the United States, for it is a tropical tree or shrub; but sago flour, when it reaches that condition, is starch, and it is exactly like cornstarch, so far as its use is concerned and so far as its effect is concerned.

I do not mean to say that there is not a difference between the quality of cornstarch and sago starch, but I do assert that they are used for exactly the same thing, although sago starch may have other uses as well. I do not want to put any duty whatsoever on sago flour or sago in any other form for food. I do not want to see any duty put on tapioca flour or any other product of sago flour that is edible; but when you bring into this country a starch—and I assert that sago flour is starch pure and simple, and is nothing else but starch—

Mr. ALDRICH. If the Senator will turn to paragraph 292—

Mr. CUMMINS. I have it before me, Mr. President.

Mr. ALDRICH (continuing). He will find that "all other starch, including all preparations, from whatever substance produced, fit for use as starch"—

Mr. CUMMINS. Precisely.

Mr. ALDRICH. Is dutiable at 1 cent per pound. That answers the Senator's argument conclusively. I will say that this article is not used as starch, and the Senator can not produce any evidence that it is used as starch. It is used for an entirely different purpose. If it were used as starch, and fit to be used as starch, it would be dutiable at a cent a pound, under the provisions of the paragraph which I have just read.

Mr. CUMMINS. That is the very difficulty with this arrangement. If it were not for the specific reference to sago flour in the paragraph now under consideration, paragraph 292 would cover the case completely. You have provided that "all other starch, including all preparations, from whatever substance produced, fit for use as starch, 1 cent per pound," and then you provide specifically for sago flour, which, as I assert again, is starch and nothing else but starch—at least I am so advised by those in whom I have the highest confidence. I do not pretend to any technical knowledge of my own, but we have two corn starch manufactories in the State of Iowa. They are independent of the Corn Products Co., and they are trying to get along as best they can.

I do not value very highly the duty on corn, but I do believe that there ought to be a duty upon the product of starch. You have given us a duty on starch, and yet by the employment of the words "sago flour" in the free list you take out of the operations of paragraph 292 the starch that is known to commerce as "sago flour." I am perfectly willing that sago in all its forms except starch shall be admitted free.

Mr. McCUMBER. Will the Senator suggest the character of an amendment that he would offer to the paragraph, so that it shall apply only to sago flour not suitable for the uses of starch?

Mr. CUMMINS. I prepared an amendment. I handed it to some member of the Finance Committee long ago, and I had some reason to believe that it would meet with a favorable consideration, but it has not. I have not at hand that amendment, but the statement just made by the Senator from North Dakota would fit the case precisely. If you just add to this paragraph in the free list, after the words "sago flour," the words "not fit for use as starch"; if, as the Senator from Rhode Island says, it is not starch and is not used for starch, it would do nobody any harm.

Mr. ALDRICH. Here is an amendment to take an article of food, which has been free for almost a generation, an article of food in common use, from the free list and put a prohibitory duty on it not to protect any manufacturer in the United States of the same article but for the benefit of another article that is produced and controlled by a great combination in the United States. I say if the Finance Committee had made this recommendation the country would have rung from one end to the other about the enormity of even the suggestion. The proposition is not defensible from any standpoint, and I am surprised at this attempt, when the opposite course was taken so recently by the Senators

PARAGRAPH 689—TAPIOCA FLOUR.

who are advocating this change. It might have been all right if it had been made weeks later. I say we are not bound as protectionists, it seems to me, to try to exclude one article because it may possibly compete with another.

Mr. BEVERIDGE. May I ask the Senator a question, with the Senator's permission?

Mr. CUMMINS. I have been trying to get the attention of the Chair to ask the Senator from Rhode Island a question.

Mr. ALDRICH. I will be very glad to answer it.

Mr. CUMMINS. This is the question I desire to ask: When sago flour is mentioned in commerce does the Senator from Rhode Island assert that it embraced the edible products of sago? Do you not know that sago flour is not eaten at all?

Mr. ALDRICH. Sago flour does embrace edible articles. It is used in that direction and was imported as sago flour for years free of duty.

Mr. CUMMINS. That answer is not entirely right, as it seems to me, because you have put sago flour in the law for the first time. It never had been mentioned at all in a tariff law.

Mr. ALDRICH. But the Senator is willing to admit, I suppose, that it has been admitted free of duty under the decisions of the courts and of the appraisers.

Mr. CUMMINS. Precisely; it has been admitted free of duty very recently; but originally, when it began to be imported here, it was admitted as starch and paid a duty of a cent a pound, I am so informed.

Mr. CRAWFORD. Mr. President, I desire to ask what duty it will bear if it is taken from the free list? What is the proposition? What rate will be imposed upon it if it is stricken out of the free list?

Mr. CUMMINS. If the words "sago flour" are stricken from the free list, it would then fall under paragraph 292 as a starch.

Mr. ALDRICH. I beg the Senator's pardon; under the decision of the courts it would not fall there at all.

Mr. CUMMINS. I am willing to risk it.

Mr. ALDRICH. Of course, the Senator is willing to risk it, because it would pay a much higher duty.

Mr. CUMMINS. I do not quite catch the import of the statement just made.

Mr. ALDRICH. I say it would pay a higher duty than 1 cent a pound. Of course, the Senator is willing to risk it.

Mr. CUMMINS. Mr. President, that accuses me—

Mr. ALDRICH. Oh, no; I did not accuse the Senator—

Mr. CUMMINS. Of bad faith.

Mr. ALDRICH. Oh, no; I beg the Senator's pardon.

Mr. CUMMINS. I say it would fall under paragraph 292, as I understand it, and would bear a rate of 1 cent a pound.

Mr. ALDRICH. Mr. President, the Senator from Michigan has an amendment, which has been prepared by tariff experts, who say that it would be enforceable, which is substantially the same as that proposed by the Senator from Maine.

Mr. BURROWS. Mr. President, in harmony with the suggestion of the Senator from Maine, I have submitted this matter to the board of appraisers on this very question, having from my State numerous complaints in the apprehension that the starch industry would be interfered with. The board of appraisers suggest the very amendment, in substance, which the Senator from Maine has submitted, which is to strike out the words contained in the bill and insert "sago flour when used for food." I send that and another amendment to the desk.

Mr. ALDRICH. That is the same thing.

Mr. BURROWS. It covers the same thing.

The PRESIDING OFFICER (Mr. Depew in the chair). The question is on the amendment proposed by the Senator from Michigan (Mr. Burrows).

Mr. NELSON. Mr. President, if that is satisfactory to the Senator from Michigan and the Senator from Maine, I shall accept that as a substitute for my motion.

Mr. BURROWS. I think that covers it.

Mr. McLAURIN. I suggest that, instead of saying "when used for food," the words "susceptible of use for food" be inserted.

Mr. ALDRICH. No.

Mr. FRYE. That will not do.

Mr. McLAURIN. If you insert the words "when used for food," it can not be imported at all, because it will have been used for food.

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The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Michigan (Mr. Burrows), which will be stated.

The SECRETARY. In paragraph 660, page 216, line 3, after the words "sago flour," it is proposed to insert "when used for food."

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Michigan (Mr. Burrows) will be stated.

The SECRETARY. It is proposed to add the same words after the words "tapioca flour," in paragraph 685, on page 219, line 1.

Mr. CRAWFORD. Is it proposed to insert the words "when used for food"? It seems to me such an amendment is farcical. I do not know what it means.

Mr. ALDRICH. That was the suggestion of the expert. I will say, however, to the Senator from South Dakota, that we shall hereafter take care of the phraseology; which, however, I think is all right; but if it is not all right, we shall make it so.

The SECRETARY. In paragraph 685, page 219, line 1, at the end of the paragraph, it is proposed to add the words "when used for food."

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Michigan.

The amendment was agreed to.

EXHIBIT L.

EXTRACTS FROM HEARINGS AND DEBATES SHOWING THAT THE GOVERNMENT HAS CONTENDED ALL ALONG THAT SAGO FLOUR AND TAPIOCA FLOUR SHOULD BE DUTIABLE EITHER AS STARCH OR AS PREPARATIONS FIT FOR USE AS STARCH.

Extracts from letters of W. J. Gibson, counsel for the Treasury Department before Board of United States General Appraisers:

January, 1900. "The points upon which we thought you might render us some assistance were that starching, sizing, and finishing are synonymous terms; that ordinary starch is used for that purpose and that sago flour has all the qualities of starch and is used as such."

November, 1900. "We should produce testimony, if possible, to sustain the following propositions: That sago flour is used for starching, and that filling and finishing textile fabrics are starching processes."

F. H. Ames Co., wholesale commission merchants, of San Francisco, wrote to the National Starch Co. in December, 1896, as follows:

"Up to within some months ago the Chinese, in their efforts to beat the Government, imported the starch through this port and reshipped it in bond to Los Angeles, and upon its arrival there the collector passed it duty free, and the Chinese then reimported it from Los Angeles into San Francisco by steamer. The collector of the port here, however, notified the collector at Los Angeles and had this stopped."

NOTE.—Above refers to tapioca flour.

EXHIBIT M.

LETTERS OF A. J. WHITEBECK WRITTEN AT THE TIME WHEN SAGO FLOUR WAS BEING IMPORTED AS SAGO, CRUDE.

BOSTON, MASS., *January 18, 1901.*

NATIONAL STARCH CO.

DEAR SIR: As per your request of the 17th instant, I went to Providence and saw Mr. J. B. Lewis late this afternoon.

I first offered him cornstarch, then some refined sago flour, and in this way led up to the subject you are interested in. He said he had imported some raw sago, but it was too poor, very dirty, and excessively damp, and would not say what he did with it. I asked him to let me see a sample of it, and he said he hadn't an ounce left. He is a large dealer in sago flour and sells to printers, bleachers, etc. I asked two parties in Providence who use sago flour if they had ever seen or heard of the crude sago, and they said not. The ordinary sago flour is not enough for anyone.

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You can get samples of sago from the following importers: Messrs. D. A. Shaw & Co., 69 Pine Street; John Kissock, Wall Street; and Messrs. J. W. Rulon & Sons, Philadelphia.

Perhaps I can get a sample and the information you want from Mr. T. R. Fay, a large importer here, to-morrow.

BOSTON, MASS., *January 19, 1901.*

NATIONAL STARCH CO.

DEAR SIR: Parties here tell me the only crude sago brought into this market is the regular sago flour, and that the crude or unwashed could not be imported, because it would ferment and spoil on the way. The dealers here are very confident that the duty will be removed from sago flour.

Extracts from testimony taken before Hon. W. B. Howell and Hon. Marion De Vries, United States general appraisers, in July, 1901:

Frederick H. Darke, called as a witness on behalf of the importers and representing Boustead & Co., of Singapore:

Q. Please state, according to your experience there, what is the crudest form in which sago is an article of commerce.

A. The crudest form that I know sago is as it comes from the tree as a pulp.

Q. Please describe to us this sago pulp that you have spoken of.

A. The tree, first of all, is cut down; then the bark is taken off; then there is a pith; that pith is grated; then the natives get it into a sort of mesh, and they put water on it and jump on it. This substance comes out of it. That is what they get.

Q. That is what you call sago?

A. Yes.

Q. Is that which you have last referred to sago flour?

A. Not quite, sir; it has to be re-cleaned before it comes into the flour. They ship it to Singapore, and it is sold to Chinamen to wash the flour out. After the sago is brought to Singapore it is sold there to Chinamen, and they buy it and bring it up to their washing sheds and wash it. The process of washing is gone through. They put the raw sago into big receptacles and clean it, and the water is allowed to settle. This is done two or three times. After it gets through that it is clean; then it is taken out and dried; and when it is dried it is sold as sago flour.

Q. And, Mr. Darke, is that sago flour that you have just described, is that the merchandise that your firm exports from Singapore to the United States?

A. Yes, sir; that is what is exported; it comes to us from the Chinamen already bagged; we simply mark it and send it off.

Extracts from letter of W. J. Gibson, counsel for the Treasury Department, before Board of United States General Appraisers:

A number of cases are pending before the Board of General Appraisers in which sago flour is claimed to be free of duty as "sago, crude." The testimony introduced by the importers is to the effect that sago flour is the crudest commercial form of sago.

We should produce testimony, if possible, to sustain the following proposition: That there is a cruder form of sago than sago flour.

NOTE.—There is plenty of testimony that can be submitted to show clearly that, no matter what the wordings of the paragraphs in the free list have been, the Government has really never intended that sago flour and tapioca flour should be free if they are starches or preparations fit for use as starch.

WASHINGTON, D. C., *February 18, 1913.*

HON. OSCAR W. UNDERWOOD,

House of Representatives, Washington, D. C.

MY DEAR SIR: In my hearings before the Committee on Ways and Means, on the first of the month, I took the ground that tapioca flour and sago flour are really starches, and are not sold as food products, and I referred to Messrs. Stein, Hirsh & Co., the largest importers of these flours, for evidence of the contention I am making before your committee. I see on page 5057 of the hearings that Mr. Leo Stein answers my

PARAGRAPH 689—TAPIOCA FLOUR.

statement by trying to shift the question from these flours to Mr. Mahana. Mr. Mahana is a very active officer of the Corn Products Refining Co., but I do not understand that he is before your committee for vindication, or for any purpose whatever, and what he mentions to the other members of the corn products committee has nothing whatever to do with this contention.

On page 5058, Mr. Stein, in his hearing before your committee, suggests that by reason of my being a lawyer and not having any knowledge of details or technical parts of the corn products business, that I have made a misstatement when I have tried to convey to your committee that tapioca flour and sago flour are imported as starches, and not as food products, and he cites as evidence that tapioca flour is imported for food, certain certificates showing only that his goods have been declared for that purpose. These certificates of the Treasury Department, I submit, do not shed any light whatever on the question as to whether or not they are foods.

I very earnestly call your attention to the letters of a representative of Messrs. Stein, Hirsh & Co., on page 5026 of the same hearings, where this same firm are quoted as saying that they are bringing solid cargoes of tapioca starch to the United States. A reading of these letters will, I am sure, convince you that Messrs. Stein, Hirsh & Co. are large importers of starches into the United States; also that their business is largely made up of the importation of tapioca starches as shown by these letters, and that they are selling tapioca starches. These tapioca starches referred to in these circulars are, in fact, imported by Messrs. Stein, Hirsh & Co. as a tapioca flour, which you will be able to verify by reference to the records of imports which will show that not a pound of tapioca starch, as such, has been imported into this country. It has all been imported under the name of tapioca flour.

If these letters soliciting the trade are correct, Mr. Stein, in his argument before the committee, was hardly as correct as he should have been, and he is open to the suspicion of trying to mislead the committee.

As further evidence, also given by large starch importer and a competitor of Messrs. Stein, Hirsh & Co., please refer to testimony of Mr. Morningstar before your committee on pages 2801, 2802, and 2803 of the hearings under the agricultural schedule. You will find that he positively declares these flours to be starches and states, "Why discriminate against starches manufactured under civilized and scientific auspices in favor of coolie labor starches of the Far East."

If the inferences which Mr. Stein has attempted to convey to you had any merit whatever, certainly some of the leading grocery men in large cities like Washington handling food products would have some tapioca flour for sale. I think I am safe in challenging Mr. Stein or any other man in the world to show that either tapioca flour or sago flour are for sale in the grocery stores throughout the United States as food products, and I furthermore believe that I am perfectly safe in stating that the only food forms of these products so sold are the pearl and flake forms, which I suggested could be very safely preserved in the free list by the means of the words submitted to your committee on these two propositions.

I have served in Congress some 20 years and during that time have tried to make a reputation for not misrepresenting anything which I brought before the Congress, and I am impelled to write you this letter because I believe my statements were absolute facts borne out by all the evidence obtainable.

Yours, very truly,

J. A. T. HULL.

TESTIMONY OF LEO STEIN, OF STEIN, HIRSH & CO.

The witness was duly sworn by the chairman.

Mr. STEIN. Mr. Chairman and gentlemen, I did not expect to come here at this session, because there is not very much to be added to what took place four years ago, at the time of the Payne bill. As far as I can see, from the record here and the statements of Gov. Hull, representing the Corn Products Refining Co., it has been simply a rehash of the record of the previous session. There are some matters, however, which I would like to call to your attention, which are brought out by my opponent, and I feel especially that it is my duty to call your particular attention to the opposition—practically the only opposition—to retaining sago flour and tapioca flour on the

PARAGRAPH 689—TAPIOCA FLOUR.

free list, and it is a fact that the opposition is practically confined to the Corn Products Co., or the Starch Trust, as it is commonly known. The committee of corn-products manufacturers is nothing more than the trust. The committee was formed by George S. Mahana, room 2243, No. 17 Battery Place, New York City, which is the office of the Corn Products Co. Mr. Mahana is the export manager for the trust that developed this whole situation, as they did before. I would like to read you a letter which was sent to one of the cornstarch manufacturers by Mr. Mahana. It is a letter dated December 31, 1912, and reads as follows:

GEORGE S. MAHANA,

17 Battery Place, New York, December 31, 1912.

GENTLEMEN: It has been suggested that there should be formed in the near future a national association of users of corn to include all classes of manufacturers of the products from America's greatest cereal. One of the objects of such an association would be to secure representation in the National Chamber of Commerce as an industry. Another worthy object would be in the line of cooperative tariff work both at home and abroad, and nearly the whole line of products, beginning with the simplest corn meal, will very likely be largely affected by the forthcoming tariff legislation.

As the hearings before the Ways and Means Committee at Washington will begin as early as the 6th of January, I think that it is highly important that some individual at Washington should be quickly selected who can present the whole subject, even to the extent of opposing a duty on corn if the products of that cereal are proposed to be put on the free list.

Pending the formation of such an association, which would naturally select the means for presenting briefs or oral arguments before the Ways and Means Committee, may I ask that I be allowed to include the signature of your company with that of others, as in the past, to such briefs as it may seem advisable to quickly present before the committee? The general idea, of course, is to do that which will tend to insure the retention of some duty upon all classes of products from corn.

If there is any objection on your part, will you kindly send me a telegram to that effect, thereby obliging,

Yours, very truly,

GEO. S. MAHANA.

Now, gentlemen, the importance of this letter is just this: Mr. Mahana has not mentioned to his competitors in the cornstarch industry a single word about tapioca flour or sago flour. In other words, he has simply put one over on them in this letter, which most of them have not paid much attention to, the idea being that he could do things just as he wanted to. I do not think there is a single cornstarch manufacturer in this country, outside of the Corn Products Manufacturing Co., that shows any interest in the manufacture of sago flour or tapioca flour. Within the last few weeks I spoke to one of the manufacturers, and he said, "I gave my name to Mr. Mahana because I thought he was going to do what he outlined in his December 31 letter." In other words, it is another one of those peculiar methods which the trust has of accomplishing some purpose with which we are not acquainted. Now, gentlemen, at the hearing on the 21st—and he stated the same thing to-day—Gov. Hull stated, "I do not think there is a pound of tapioca or sago flour imported to the United States for food purposes." Of course, I will say this for Gov. Hull, he is a lawyer and has no knowledge of the details or technical parts of this business, so that perhaps he is not expected to give any opinion. I think, therefore, that his statements should be considered in that light.

Mr. JAMES. He suggested this morning, you know, that so far as tapioca flour and sago flour were used as food products, that they be allowed to remain on the free list.

PARAGRAPH 689—TAPIOCA FLOUR.

Mr. STEIN. Excuse me, but Gov. Hull stated that tapioca flour was not used for food and he had no objection to pearl or flake tapioca being allowed to remain on the free list. Now, I went to the trouble of going to the Treasury Department a few days ago and have asked them to certify to the amount of importations which my firm has brought into the port of New York during the year 1912, with the food certificate attached.

Mr. HULL. Is that flour?

Mr. STEIN. I am only referring to the tapioca flour at this moment. This is the certificate:

TREASURY DEPARTMENT,
UNITED STATES CUSTOMS SERVICE,
PORT OF NEW YORK,
OFFICE OF THE COLLECTOR.

This is to certify that during the calendar year of 1912, Stein, Hirsh & Co., New York, N. Y., have imported at this port under various entry numbers, 82,826 bags of tapioca flour in 46 shipments, all of which tapioca flour was appraised and passed as such, and to the invoices of which is attached Consular Form No. 197, as per copy herewith.

[SEAL.]

H. C. STUART,
Special Deputy Collector.

JANUARY 30, 1913.

Here is an original declaration of our manufacturer and jobber, showing that this flour was manufactured for food purposes:

DECLARATION OF SHIPPER OF FOOD PRODUCTS.

I, the undersigned, do solemnly and truly declare that I am the owner of the merchandise herein mentioned and described, and that it consists of food products which contain no added substances injurious to health. These food products are grown in Java and manufactured in Bendoredjo by the Handelsvereeniging "Amsterdam" during the year 1912 and are exported from Sourabaya and consigned to whom it may concern. The products bear no false labels or marks, contain no added coloring matter or preservative, and are not of a character to cause prohibition or restriction in sale in the country where made of from which exported.

Dated at Sourabaya this 9th day of May, 1912.

HANDELSVEREENIGING "AMSTERDAM."

Then follows the description, which I will not read.

This particular importation was for 3,452 bags.

Mr. HILL. How much to a bag?

Mr. STEIN. About 215 pounds.

Mr. JAMES. That was used for food purposes?

Mr. STEIN. Yes, sir.

Mr. JAMES. The statement made by Gov. Hull this morning would not affect that character?

Mr. STEIN. Oh, yes, it would. Pardon me, but he qualified his objection by saying that they had no objection to pearl or flake tapioca, or pearl or flake sago being brought in, but they did object to flour being put on the free list.

Mr. HULL. His contention was that none could be brought in for food purposes except in flake form?

Mr. STEIN. Yes.

Mr. JAMES. It would seem to me from his argument that his intention was that sago flour and tapioca flour used for starch purposes ought to be taxed the same as other starch.

Mr. STEIN. I will come to that in just a minute, if you will allow me.

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Mr. JAMES. Before you do, I would like to have you explain to the committee what their reason is for wanting this on the free list.

Mr. STEIN. Well, I do not know except perhaps it is a personal contention. I would like to state this to the committee: My firm is, next to the Corn Products Co., the largest distributor of cornstarch in the United States. We are also importers of potato starch. We are also exporters of cornstarch. So that, so far as we are concerned, it is not a personal matter.

Mr. JAMES. Do you believe that tapioca flour or sago flour used for starch purposes on the free list would tend to cheapen the price of starch to the consumer?

Mr. STEIN. I do not think that tapioca flour or sago flour, except to a very small extent, are used for starch purposes.

Mr. JAMES. Well, now, that does not answer the question. The question was whether or not if we should let tapioca flour or sago flour, for food purposes, be admitted free and place a like duty upon them for starch purposes as is placed on other starch—whether or not that would tend to cheapen starch?

Mr. STEIN. I do not know that I understand your question fully. Let me see whether this will answer it. I suppose you gentlemen know that the definition of starch, or what starch is, is a product that is used for stiffening purposes. Now, I do not know of a single instance where sago flour or tapioca flour is used for that particular purpose. I do not see how you could frame your particular item to meet the statement which you have just made, because even an article like flake tapioca, which is used, say, 95 or 98 per cent for food purposes—there is perhaps about 2 per cent which may be used for manufacturing purposes; that is, in the finishing of certain lines of cotton goods, we will say. But surely, if you ask anyone who knows anything about tapioca what flaked tapioca is used for, they would say it is used exclusively for food.

Mr. JAMES. It has always been on the free list?

Mr. STEIN. Yes, sir. Pearl tapioca and flake tapioca have been on the free list since 1897 and since then tapioca flour has been put on. Prior to that time it was not. As I go along in my argument I think I will be able to explain that to you, but the main point I wanted to make was to show you gentlemen that tapioca flour has been imported to a large extent for food purposes, in addition to the other forms of flake and pearl. I also wish to say that the tapioca flour is the basis from which pearl and flake are made. In other words, it is the raw material out of which pearl tapioca and flake tapioca are made. The flour is not made from the others, but flake and pearl tapioca are made from the flour.

Mr. HULL. They are not made here?

Mr. STEIN. They are not made in this country. They are products which are grown in the East Indies.

Mr. HULL. But they are not converted into pearl?

Mr. STEIN. The operation is simply this: They take the flour and mix it with water and make it into a dough, and then they have a form for making the little pebbles which you know as tapioca.

Mr. HULL. None of it is made in this country at all?

Mr. STEIN. I think not.

Mr. HULL. No such thing is manufactured?

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Mr. STEIN. I think not. Now, at the last hearing on this subject Governor Hull made the statement in answer to Mr. Hull here "I think I am not violating any confidences when I say, in addition to that, that it was understood by these companies, some of them, through the Chairman of the Finance Committee of the Senate, that it would be fixed so that there would be only a few products admitted free, but in the fix up of the bill, I understand, it was changed so that it was not done that way." Referring to the Congressional Record for June 12, 1909, we have the statement from the Chairman of the Finance Committee of the Senate, Mr. Aldrich, that tapioca flour and sago flour were then and had been for a great many years free of duty, and so forth. Then he goes on to say that these articles are not made in the United States and can not be made in the United States, at all.

The CHAIRMAN. Your time has expired.

Mr. STEIN. All right.

The CHAIRMAN. Mr. Stryker is the next witness.

Mr. STRYKER. I would yield my time to Mr. Stein, Mr. Chairman.

The CHAIRMAN. All right.

Mr. STEIN. I would like to read for your information a few statistics on the tapioca importation during the year 1912. During that year according to the statement which is made here, 52,000,000 pounds of tapioca flour and tapioca were imported into the United States, of which 24,702,000 pounds was brought in in the shape of pearl and flake tapioca. That is, approximately. Over 11,200,000 pounds were brought in in the shape of tapioca flour itself for food purposes exclusively. In addition to that, 12,320,000 were brought in for the purpose of envelope gum or dextrin. There was also about 4,000,000 pounds for technical purposes, such as might be used in sizing or for glue or for something of that sort, showing that of the total 52,000,000 pounds importation about 36,000,000 pounds of tapioca in one form or another was used for food.

Mr. JAMES. What is the name of this starch company you refer to?

Mr. STEIN. The Corn Products Refining Co.

Mr. JAMES. And you refer to them as a trust?

Mr. STEIN. Yes, sir.

Mr. JAMES. Do they dominate the market?

Mr. STEIN. Yes. They settle the price, and everyone follows them. According to the statement of Mr. Walden at the last hearing four years ago, they do about 75 per cent of the cornstarch business in this country. Now, gentlemen, Gov. Hull attempted a few minutes ago to quote a Supreme Court decision in regard to tapioca, and I am afraid the governor got his dates a little mixed up. I have this decision before me, and, with your permission, I will read it. It is the decision of the United States Supreme Court in the case of the Chew Hing Lung Co. against the United States, found in 176 United States, 156.

This instruction is in strict accordance with the rule that the designation of an article eo nomine, either for duty or as exempt from duty, must prevail over words of a general description which might otherwise include the article specially designated.

Thus far we have proceeded upon the assumption that tapioca flour was a preparation fit for use as starch, and therefore dutiable under paragraph 323 unless excepted therefrom by paragraph 730; but we are of opinion that tapioca flour is not a preparation fit for such use within the meaning of the statute. The substance in question

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is not commercially known as starch, nor as any preparation fit for use as such. In the markets of the United States it is commercially known as tapioca flour, while the term "tapioca" includes precisely the same substance. Its use as starch for laundry purposes is limited to the Chinese on the Pacific coast.

I want to add, gentlemen, right on this subject, that I do not think that the Corn Products Co. cares very much for Supreme Court decisions, otherwise they would not now be investigated by the Department of Justice, which is the case at present.

Mr. FORDNEY. What are they being investigated for? Is it for monopoly, in restraint of trade or for violating the antitrust laws?

Mr. STEIN. For violating the Sherman antitrust law. I did not read the bill, so I do not know what it is exactly.

Mr. FORDNEY. The same as the Sugar Trust, the Tobacco Trust, the Steel Trust, and every other trust?

Mr. STEIN. I do not know. I had expected that the Corn Products people would have one of their representatives present. I had expected that Mr. Mahana would be present and be able to enlighten you gentlemen in some way as to why they are seriously interested in this question.

I want to state, as a cornstarch man, that there is not a pound of tapioca flour used for cornstarch in this whole United States; and let me tell you, gentlemen, that the price of cornstarch to-day, for technical purposes, is 1.82 cents—last week, when we wrote our brief, it was 1.70, showing a rise—and the average price of tapioca flour for food, is 3¼ cents per pound. If it affects the cornstarch industry, we would not be selling tapioca flour. No one is going to pay 3¼ cents a pound for tapioca flour when they can buy practically the same article, as they claim, for about half the money. The statement has been made by Gov. Hull that no one, not even an expert, can tell the difference between flour and cornstarch. Why, that is absurd. Any one of you gentlemen could immediately distinguish the difference between tapioca flour and cornstarch. Mr. Walden, who appeared before the Ways and Means Committee four years ago—I think Mr. Payne will recall—made the statement that they were not interested in duty on tapioca flour. How is it, I ask, that all of a sudden they have become so interested?

Mr. FORDNEY. What would you assign their interest to now?

Mr. STEIN. I do not know. I would rather not get into the personal element of the subject.

Mr. FORDNEY. Well, he came here and appealed to the committee—

Mr. STEIN (interposing). I have made the statement before that my firm is the largest distributor of cornstarch in the United States, next to the Corn Products Co. We have been in business since 1866, and I suppose we are more or less a thorn in their side. I suppose they thought that the only way they could get square with us was to attack us in this way. Gentlemen, I realize that my statements here are made under oath, but I make this statement that not a single pound of tapioca flour is used for cornstarch as far as I know.

Mr. FORDNEY. You sell an article which comes into competition with their product?

Mr. STEIN. We are selling potato starch.

PARAGRAPH 689—TAPIOCA FLOUR.

Mr. JAMES. I do not quite understand the interest that you say he has, for this reason: He says to this committee: "You make a paragraph here that allows tapioca flour and sago flour to come into this country free," and you say that none of it is used for food purposes?

Mr. STEIN. Oh, no. I said that less than 4,000,000 pounds is used for technical purposes.

Hon. OSCAR UNDERWOOD, *Chairman*.

SIR: Tapioca flour should remain on the free list, where it appears now under paragraph 689.

Tapioca is made from roots grown chiefly in Java and the Malay Peninsula. There are none raised in the United States. It is raw material used in the main for food and manufacturing purposes.

It does not compete with any domestic product.

It can easily be proven that tapioca flour does not interfere with cornstarch or potato starch industries in the United States. It can not compete with cornstarch; they are totally different articles. To begin with, the average price of tapioca flour is \$3.25 per 100 pounds at seaboard, against the present price of cornstarch of the Corn Products Refining Co. (Cornstarch Trust) of \$1.70 per 100 pounds, freight paid to Eastern States, or delivered in the Middle West (Chicago points). Tapioca costs \$3.50 against \$1.53 per 100 pounds for cornstarch.

Tapioca flour is the raw product from which pearl and flake tapiocas are made.

During 1912 approximately 52,000,000 pounds of all kinds of tapiocas were imported into the United States.

Of these, about 15,702,000 pounds were in the form of flake and pearl, shipped from the Straits Settlements.

About 9,000,000 pounds came from Java in the form of pearl and flake.

Over 11,200,000 pounds in the shape of tapioca flour was used exclusively for food purposes.

About 12,320,000 pounds were used in the manufacture of envelope gums.

About 3,798,000 pounds were used for textile and other purposes.

In other words, about 36,000,000 pounds of tapioca in one form or another are used for food.

Tapioca gum.—As referred to above, 12,320,000 pounds of tapioca flour are used in the manufacture of envelope and postal gum. This product can not be satisfactorily manufactured from any other raw material. This gum does not compete with any other American product. If not made here, it will be imported from England, closing the tapioca-gum industry here.

The only real advocate for a duty on tapioca flour is the Corn Products Co., known as the Starch Trust.

The Supreme Court has decided that tapioca flour is not a starch in the case of *Chew Hing Lung v. Wise*, collector. (See United States Reports, vol. 176, October term, 1899.)

It has been stated that tapioca flour competes with potato starch. This is not true, because the full annual production of about 14,000 tons of potato starch in the United States has continued, excepting in years of poor potato crops, selling at 4½ cents per pound at present, and frequently at over 5 cents per pound, as against an average price of 3¼ cents per pound for tapioca flour. Holland and German potato starch alone compete with this American product. About 6,000 to 7,000 tons of potato starch for these countries were imported in 1912 for textile purposes.

Why are consumers not buying tapioca flour at more than 1 cent per pound below the price of potato starch? Because tapioca flour will not do the work of potato starch.

Tapioca flour has found a unique place for itself by virtue of certain properties which no other similar product possesses.

Respectfully,

Stein, Hirsh & Co., New York City; J. H. Recknagle & Son, New York City; James W. Phye & Co., New York City; L. Littlejohn & Son, New York City; Perkins Glue Co., Lansdale, Pa.; Burch-Kane Co. (Inc.), New York City; Abe Stein & Co., New York City; Winter, Son & Co., New York City; Rutger, Bleecker & Co., New York City.

PARAGRAPH 689—TAPIOCA FLOUR.

STATEMENT BY C. B. HUIET, CHARLESTON, S. C.

CHARLESTON, S. C., *February 11, 1913.*Hon. OSCAR W. UNDERWOOD, *Chairman:*

Referring to Exhibit G of testimony of John H. E. Hull, wherein the latter submitted extracts from certain circular letters issued by me, as a representative of Stein, Hirsh & Co., New York City, dated January 26, March 18, and April 21, 1909, wherein I used the words "tapioca starch," I beg leave to say that the use of the word starch in connection with tapioca was made by me without any authority from Messrs. Stein, Hirsh & Co., or without any indication on their part that such was the product referred to. These gentlemen told me to sell tapioca flour. As I was anxious to find a market for this product, and as I was selling the cotton mills products of various kinds, I assumed that this article, tapioca flour, might best be called tapioca starch, in order to introduce it into the mills.

As I never had any practical experience with starches, it occurred to me that I might possibly be able to interest buyers by referring to the product as tapioca starch instead of tapioca flour.

Although all of the mills that I visited were users of corn starch and other starches, I have only succeeded in selling sample lots of tapioca flour, in all less than 200 bags, during the several years that I tried to make a market for it. I discovered that the article could not be used as a substitute for starch by the mills, and therefore informed Messrs. Stein, Hirsh & Co. that I could not make any progress with it.

I wish to repeat that I issued the circulars in question without the knowledge or authority of Messrs. Stein, Hirsh & Co., and I now gladly make this statement, so that your committee may know that the reference made in my circulars at the time was without any knowledge on my part of what the article really was. As far as my experience goes, tapioca flour can not be substituted for starch.

I also desire to inform you that Messrs. Stein, Hirsh & Co. wired me, requesting me to appear in Washington on February 1, in order to personally give you the facts above stated. Unfortunately I was ill in bed at the time, and for that reason alone was unable to appear.

Yours, very truly,

C. B. HUIET.

LUDLOW, MASS., *February 15, 1913.*STEIN, HIRSH & Co.,
358 Washington Street, New York, N. Y.

GENTLEMEN: Referring to the statement made by a starch salesman, June 2, 1909, and referred to as "Exhibit F" in hearings before the Ways and Means Committee, February 1, I wish to say that I have no recollection of such conversation with any salesman.

The report that we had in stock 112 carloads of cornstarch is erroneous, as our consumption of this commodity, which never exceeds 10 carloads in any one year, would not warrant our carrying such a large quantity in stock. We also wish to add that we use tapioca flour and cornstarch for two entirely different purposes.

Yours, very truly,

LUDLOW MANUFACTURING ASSOCIATES,
SIDNEY STEVENS, *Agent*,
Per STURGIS.

BRIEF OF J. B. B. STRYKER RE TAPIOCA FLOUR.

Mr. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE:

When consideration is given to the matter of tapioca flour, will you not bear in mind the fact that this commodity has risen in price (not only in the United States but in England and Europe as well) 32 $\frac{1}{2}$ per cent in the last two years. In 1910 we paid for it \$2.75 per 100 pounds. In 1912 we paid for the same grade the price of \$3.65 per 100 pounds, and this is the present price.

A duty placed on this product, in addition to this rise in price, would work a very serious injury to the consumers, who, like ourselves, have but this one material to depend upon as raw material; nothing else can be used on account of certain gumlike properties contained in tapioca flour, and not found in any other material now available, either of domestic or foreign origin.

PARAGRAPH 689—TAPIOCA FLOUR.

As you probably know, no tapioca is produced here, and none can be, as nowhere in the United States is there a climate in which the root can be grown from which it is made.

Respectfully submitted.

J. B. B. STRYKER.

LANDSDALE, PA., January 30, 1913.

BRIEF OF NATIONAL GUM & MICA CO., NEW YORK.

NEW YORK, February 8, 1913.

*To the Chairman and Members of the Committee on Ways and Means,
House of Representatives, Washington, D. C.*

GENTLEMEN: As consumers of sago flour and tapioca flour we appeal to you to keep these raw materials of ours upon the free list.

In the testimony that has been submitted to you on this subject there is very much that is misleading and erroneous. For example, on page 2802, No. 13, of the Tariff Hearings it is stated: "Tapioca flour and starch, as also cassava flour and starch, are chemically the same as any other starch, and so does sago fall under the category of starches."

This statement is entirely without foundation in fact. Different kinds of starches and flours are by no means the same chemically, physically, or any other way, neither are they interchangeable one for the other except in very few cases. Entirely apart from the flavored statements you have heard from interested parties, one bald fact sticks out like a sore thumb. This fact is, that although cornstarch has for some time been very much cheaper than either sago flour or tapioca flour, we, and very many others, are nevertheless compelled to pay the higher prices for sago flour and tapioca flour because cornstarch will not serve as a substitute. For example, the price of cornstarch to-day is \$1.82 per 100 pounds, and about a week ago it was \$1.70 per 100 pounds. Notwithstanding this fact we were purchasing and using in our business tapioca flour from 2½ cents per pound and upward, sago flour at \$2.25 per 100 pounds and upward, and potato flour at over 4 cents per pound.

The writer is a chemist who has made a special study of starches, and begs to state that it is a fact well known and accepted scientifically that the various starches above referred to are not chemically the same. It is true they have approximately the same percentage proportions of carbon, hydrogen, and oxygen, but they are no more the same substances than are diamond, graphite, and lampblack, each of which is chemically pure carbon. The physical properties of substances are of the greatest importance. Thus the pure carbon diamond is the hardest known substance, whereas the pure carbon graphite is so soft it is used as a lubricant. In like manner the starches obtained from the various plants each have their own peculiar characteristics which render them valuable in the production of gums, sizings, pastes, etc.

This difference in the physical properties of starches also extends to their food value. Very serious errors have been made in the past by supposing that substances which have the same empirical formula have the same food value. The inclosed reprint of the writer from the Journal of the Medical Association will show you how the properties of milk may be entirely changed by colloid chemical differences.

Sago and tapioca are not produced in this country, neither is any substitute for them produced in this country.

On page 2804, speaking of tapioca flour, Mr. John A. T. Hull stated—

"I think it is entirely used for starch purposes. I do not think there is a pound of tapioca or sago flour imported to the United States for food purposes."

This statement is incorrect, for if any one of you buy a cake of Fleischmann's compressed yeast you will see that it is prepared with the aid of tapioca flour costing above 3 cents a pound, whereas cornstarch can be had way below 2 cents a pound. We ourselves sell some tapioca flour for food purposes and know there is a great deal used in this manner.

It is probably true, however, that most sago and tapioca flour is not used for food purposes, but these substances form essential raw materials of many industries. For instance, in the manufacture of dextrins and sizings which are so largely used in the enormous textile and paper trade.

The manufacturers of cornstarch who are appealing to you to put a duty on sago and tapioca mistakenly believe that they will thereby force the industries of this country to use their product in place of sago flour and tapioca flour. They also think that by shutting out these possible sources of competition they can be in a position to advance

PARAGRAPH 689—TAPIOCA FLOUR.

their own prices. It takes several million dollars to start a plant to manufacture cornstarch, and, therefore, competition against them is not easily made.

For the most part, nevertheless, their object will fail, since cornstarch can not replace sago flour, tapioca flour, or potato flour. The only result would be to put an additional tariff burden on the raw materials of industry and on some of the food of the people.

We also respectfully request you to consider reducing the duty on potato starch, or potato flour, and on dextrin.

We import both of these substances as raw materials for use in our business. American-made potato flour hardly enters as a factor, since the potatoes of this country are primarily used for food. By reducing the duty on potato flour you will simply give us a cheaper raw material to work with. We would respectfully request you to reduce the duty on both potato flour and dextrin as low as it can be reduced, having in view the necessities of Government revenue.

I have reviewed some of the testimony and exhibits put before your honorable committee, and for your convenience I will make my comments on separate sheets. I trust that you will give our plea careful consideration, and would point out to you that there is very grave danger in allowing the raw materials of industry to be controlled by any trust or group of manufacturers. We trust you will carefully consider this whole question and decide to leave sago flour and tapioca flour on the free list, which I think will be to the best interest of the whole country, although not so satisfactory to manufacturers of cornstarch; for, as a matter of fact, if cornstarch be advanced in price unreasonably, sago and tapioca flours can easily be used to substitute cornstarch as a food.

Very respectfully, yours,

NATIONAL GUM & MICA Co.,
JEROME ALEXANDER, *Treasurer*.

A CRITICISM OF TESTIMONY, BRIEFS, AND EXHIBITS.

Sago flour as imported has distinct brownish tinge, whereas potato starch is snow white. In order to replace potato flour even to a small extent, sago flour would have to go through complete rewashing, purification, and bleaching, and some years ago when potato flour was very high in price a manufacturer in this country actually refined imported sago flour and sold the refined article. Sago flour can not be used as potato starch.

A great many of the textile mills use enormous quantities of wheat flour, rye flour, and corn flour in place of starch, but this does not mean that wheat flour, rye flour, and corn flour are not also used as food. Your committee should not be misled by the fact that considerable sago and tapioca are used as raw materials for various industries, as well as for food purposes. So-called "Minute Tapioca," which is in flour form, is one of the food forms of tapioca.

Sago and tapioca in flake form represent a more highly manufactured form of the product than the sago and tapioca flour. The flake and pearl sago and tapioca are made from the flour by pressing the dampened flour through hot plates. It would seem unreasonable to leave the higher manufactured form on the free list and put the cruder form on the dutiable list just to please corn starch manufacturers, and deliver the industries and starch food of this country over to their tender mercies.

Your committee is being somewhat misled as to the so-called wastage or loss in the manufacture of dextrin from starch. Dextrin is made by heating starch with or without the presence of acid, and during the heating the starch loses its moisture, which in the case of some starches may run as high as 20 per cent. The finished dextrin, however, gains back a great deal of its moisture, and by the time it is sold 6 or 8 per cent of the moisture has usually come back. Furthermore, the loss is usually not as high as 20 per cent.

If your committee decides to make a differential between duty on potato starch and the duty on dextrin, it should certainly not be as great as the dextrin manufacturers' request. Their desire is to have free tapioca flour as a raw material, and then be in a position to hold a high price on their dextrin by having competition with foreign dextrin shut out because of a high dextrin duty. We trust your committee will read between the lines and see the interested points of view of the various parties.

No tapioca is made in Germany from potato flour, but German potato starch has been made up in little balls that resemble pearl tapioca, and the article has been sold for food. In this country these same little balls could be made up from cornstarch, and, as a matter of fact, would serve just about as well for food as the little balls made from tapioca or from potato starch.

PARAGRAPH 689—TAPIOCA FLOUR.

Tapioca flour can easily be used in making blancmange and similar puddings, and not only can, but does, substitute cornstarch in the preparation of foods, and has peculiar physical properties which give it a distinct advantage over cornstarch. For cooking purposes cornstarch, however, is most generally used as a household article because it has been widely advertised for many years, and is quite familiar to the people of this country. In Germany, for example, potato starch is used for food purposes because it is cheap. Mr. Hull's statements are, therefore, erroneous. With the possibility of sago and tapioca flour as competitors in the food market, cornstarch will never rise to a prohibitive figure.

I will now take up the various arguments in the brief submitted by Hull & Reeve.

Claim. Sago and tapioca flour are starches.

Answer. It makes very little difference what name the products bear. Your committee must consider the uses of the product and the general welfare of the country. In England corn flour means a powdered cornstarch. In this country corn flour is an entirely different product, being the powdered interior of the corn grain. The mere name of the article should be quite immaterial to your committee.

Claim. Sago flour and tapioca flour, as imported, not changed or modified, being starches, are competitive with all starches made in the United States from products of our soil.

Answer. Without doubt to some extent sago and tapioca compete with American-made starches. This competition is a most excellent protection for the people and industries of this country; for, with normal crops, and an absence of trusts and manipulation, cornstarch will always be much cheaper than sago and tapioca. If the corn crop should be a failure, or trust manipulation become dominant, it will be a godsend to the people and industries of the country to have sago and tapioca on the free list.

Claim. Sago flour and tapioca flour, like all other starches, are used interchangeably for starching, sizing, filling, in laundry work, for edible purposes, and for many other purposes.

Answer. Starches, flours, gelatines, and a great variety of other substances are used for sizing, filling, stiffening, etc., also for edible purposes. For the best interest of this country our people should have the widest choice in the way of food, and our industries the widest choice in the way of raw materials.

Claim. Sago flour and tapioca flour and all other imported starches must substitute some American-produced starch.

Answer. This claim is ridiculous on its face, in view of the fact that to-day cornstarch costs only \$1.82 per 100 pounds (and recently sold for \$1.70 per 100 pounds), whereas sago flour sells for about 2½ cents per pound and upward, tapioca from 2½ to 2½ cents a pound, and potato flour at above 4 cents per pound. If cornstarch could be used in place of these more expensive products their importation would at once cease.

Claim. Sago flour and tapioca flour are largely imported, and the volume is increasing, if left free of duty, they will continue increasing.

Answer. We certainly trust that the importation of sago flour and tapioca flour, both for food and for manufacturing purposes will largely increase. We also hope and feel sure that the corn industries will largely increase at the same time. In a huge country like ours there is not only room for both domestic and imported articles, but there is also necessity for both. It will certainly be unwise to burden the food and industry of this country with a tax meant to benefit manufacturers of cornstarch.

Claim. Sago flour and tapioca flour and all kindred products are dutiable at the same rate, or about equivalent rates, with starches in all important foreign countries.

Answer. I do not see why this country should be governed by the action of the countries referred to, where the agrarian interests or the necessities of the Government revenue have been responsible for the imposition of duty on sago and tapioca. England has no duty, and, therefore, has an advantage over the countries that have duty. In the case of France and Germany it is the object of these respective Governments to make their countries, in so far as they possibly can, dependent upon their own soil for their food products; hence Germany especially has raised barriers against importation of our meat, fruit, etc. As I understand the voice of the people, as expressed in the last election, it was that this country should travel rather toward free trade than toward higher protection, and I think that Congress will be false to its trust if it yields to the arguments of interested parties and places a tax upon these necessary raw materials, sago and tapioca.

Claim. Sago flour and tapioca flour are cheaply produced abroad in enormous quantities and threaten the American industry.

Answer. Sago and tapioca in no way threaten American industries, because as a rule American cornstarch undersells both, and further American cornstarch is much

PARAGRAPH 689—TAPIOCA FLOUR.

whiter than either sago or tapioca, and by reason of its own merits has an unshakable hold on the laundry trade. Sago as imported can not be used for laundry purposes, and neither can most tapioca. The American cornstarch industry is not only safe but is oversold at the present time. Furthermore, the American industry as always has been shipping an enormous and increasing large quantity of cornstarch into free-trade England in open competition with sago, tapioca, and potato starch. This is so because cornstarch has certain peculiar properties which render it absolutely necessary for certain industries. With sago and tapioca on the free list the American cornstarch industry is safe, but if they are put on the dutiable list the people and other industries of the United States will not be so safe as they are at present.

Claim. Sago flour and tapioca flour are admitted free of duty through error or misunderstanding.

Answer. No matter what misunderstanding there may have been in the past Congress must completely understand and see the facts as they now exist. Cornstarch manufacturers undoubtedly had a great deal to say in the making of the old McKinley tariff and had hoped that in its wording they had succeeded in putting sago and tapioca on the dutiable list. While we can easily understand their chagrin at their failure to accomplish the desired result, we must not overlook the interest of the country at large, which is to have sago and tapioca continued on the free list.

Claim. Sago flour and tapioca flour are not the crude forms of sago and tapioca.

Answer. We have never seen any sago flour imported which could not be classed for a crude product. Of course, it is not the crudest possible product, but is undoubtedly a crude product containing a large quantity of fiber, etc. Sago can not compete in color with any of the other starches. It would have to be purified, cleaned, and bleached. Most of the tapioca flour imported into this country is by no means as clean and white as corn flour, and as before stated, neither of these flours could possibly substitute cornstarch for laundry purposes. We trust to avoid all misunderstandings that you will keep the expressions sago, crude, tapioca, crude, out of the tariff bill, but be sure to leave sago and tapioca flour both on the free list.

Claim. Sago and tapioca in all of their forms could well be dutiable without disadvantage to the consumer and with an appreciable revenue to the Government.

Answer. Undoubtedly, if you put a duty on sago and tapioca you will bring revenue to the Government, because very large quantities of these materials will have to be imported, since cornstarch can not possibly replace them. This burden of duty, therefore, will undoubtedly fall on the consumer; but, as we understand it, it is the desire of Congress not to put duties on the raw materials of industry and on food products.

The statement that the food forms of sago and tapioca are in the luxury class is ludicrous. It may be that some retail grocers get high prices for sago and tapioca, and so they do for cornstarch, which in a wholesale way sells at 1½ cents while it retails very frequently for 10 cents a pound and over. If Congress wants to make a campaign and educate the consumer, all right; but this present tariff bill is no field for such an educational propaganda.

I have already commented upon the mistakes of this witness in my letter addressed to your committee. I certainly think that your committee should reduce the tariff on potato starch, which is unnecessarily high.

If you will note, this letter is dated July 13, 1909, at which time, if my recollection is correct, tapioca flour was cheaper than the prevailing trust price on cornstarch. Without doubt, in some cases textile mills could use sago and tapioca to replace cornstarch, especially if cornstarch is much more expensive; but one letter from one mill, or several letters from several "stool pigeons," should not control the decision of your committee.

The above remarks also apply to Exhibit F, page 5026.

As you see, these circulars are dated 1909, when cornstarch was high and tapioca flour cheap. Naturally, the importers of tapioca flour saw their opportunity, and were attempting, wherever possible, to have their cheaper product used in the industry in place of the then more expensive cornstarch. The very circulars quoted show that by leaving sago and tapioca flour on the free list the industry of this country can be to some extent protected against extortion by the cornstarch manufacturers.

As before stated, it is an advantage to this country to have its import of raw materials increase. Furthermore, the cornstarch industry is likewise increasing with leaps and bounds, and while we have no figures available, it would be interesting to parallel the increase in the cornstarch industry with the increase of sago and tapioca imports.

JEROME ALEXANDER.

PARAGRAPH 691—TEA.

PARAGRAPH 690.

Tar and pitch of wood.

PARAGRAPH 691.

Tea and tea plants: Provided, That nothing herein contained shall be construed to repeal or impair the provisions of an act entitled "An act to prevent the importation of impure and unwholesome tea," approved March second, eighteen hundred and ninety-seven, and any act amendatory thereof.

TEA.

1332 I STREET NW.,

Washington, D. C., January 20, 1913.

HON. OSCAR W. UNDERWOOD,

*Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.*

SIR: On behalf of the tea merchants of the United States, who have complained to me, I would like to call your attention to the Canadian tariff on tea. I brought this fact out in a brief which I submitted relative to paragraph 195 in Schedule C, but I thought I had better bring it to your attention again under the free list, as that is where it belongs.

"Tea imported direct from the country of origin, and tea purchased in bond in the United Kingdom, free. Tea not otherwise provided for * * * ad valorem 10 per cent."

Under this provision Canadian merchants have a distinct advantage over tea merchants in this country, for the reason that while they may ship tea into this country free of duty, tea shipped by our merchants into Canada must pay duty at the rate of 10 per cent ad valorem.

In view of the foregoing, the propriety of incorporating into the new tariff act the provision in the Canadian tariff act as to the imposition of duty upon tea not imported directly from the country of origin is suggested.

The Government spends a very large sum of money yearly enforcing the act entitled "An act to prevent the importation of impure and unwholesome tea, approved March 2, 1897." This act guarantees to the people of the United States pure teas and also teas of good quality, since it requires that all teas imported should be up to a certain standard of quality. In view of the fact that the Government is paying out money each year to enforce this act, it seems right that there should be a small duty imposed on all teas coming into the United States, or perhaps on all teas coming into the United States packed in packages of 5 pounds or under. If this duty was imposed on the latter it would serve two purposes, besides producing enough revenue to cover the expenses of enforcing the tea law. It would also allow the tea packers in America to compete with foreign packed teas, which are packed with very much cheaper labor.

The writer would recommend that either paragraph 668 or 691 be so amended as to allow the bringing in of tea seeds duty free.

Respectfully,

GEO. T. MITCHELL.

PARAGRAPH 692.

Teeth, natural, or unmanufactured.

PARAGRAPH 693.

Terra alba, not made from gypsum or plaster rock.

PARAGRAPH 694.

Terra japonica.

PARAGRAPH 695.

Tin ore, cassiterite or black oxide of tin, and tin in bars, blocks, pigs, or grain or granulated: Provided, That there shall be imposed and paid upon cassiterite, or black oxide of tin, and upon bar, block, pig tin and grain or granulated, a duty of four cents per pound when it is made to appear to the satisfaction of the President of the United States that the mines of the United States are producing one thousand five hundred tons of cassiterite and bar, block, and pig tin per year. The President shall make known this fact by proclamation, and thereafter said duties shall go into effect.

PARAGRAPH 695—TIN ORE.

TIN ORE.

NEW YORK, December 30, 1912.

Mr. UNDERWOOD,

Ways and Means Committee, Washington, D. C.

DEAR SIR: Referring to our letter of December 12, as regards the paragraph 695, tin ore, black oxide of tin, tin in bars, blocks, pigs, grain, or granulated, be changed so as to read "tin ore, black oxide of tin, tin in bars, blocks, pigs, grain, powder, and granulated," which is on the free list. We point out to you that this tin powder is no alloy nor a mixture, like tin bronze, and this pure tin powder can not be obtained in the United States, and it is imperative to have this article for manufacturing wrapping papers for food material, as only for this powder 99½ per cent pure tin can be guaranteed. If you will kindly make this amendment when this paragraph is taken up, we shall feel very much obliged to you.

Thanking you in advance for giving this your prompt attention, we remain,

Yours, truly,

KUPFER BROS. CO.

PARAGRAPH 696.

Tobacco stems.

PARAGRAPH 697.

Tonquin, tongqua, or tonka beans.

PARAGRAPH 698.

Turmeric.

PARAGRAPH 699.

Turpentine, Venice.

PARAGRAPH 700.

Turpentine, spirits of.

PARAGRAPH 701.

Turtles.

PARAGRAPH 702.

Types, old, and fit only to be remanufactured.

PARAGRAPH 703.

Uranium, oxide and salts of.

PARAGRAPH 704.

Vaccine virus.

PARAGRAPH 705.

Valonia.

PARAGRAPH 706.

Verdigris, or subacetate of copper.

PARAGRAPH 707.

Wax, vegetable or mineral.

PARAGRAPH 708.

Wafers, unleavened, or not edible.

PARAGRAPH 709.

Wearing apparel, articles of personal adornment, toilet articles, and similar personal effects of persons arriving in the United States; but this exemption shall only include such articles as actually accompany and are in the use of, and as are necessary and appropriate for the wear and use of such persons, for the immediate purposes of the journey and present comfort and convenience, and shall not be held to apply to merchandise or articles intended for other persons or for sale: Provided, That in case of residents of the United States returning from abroad, all wearing apparel and other personal effects taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established, under appropriate rules and regulations to be prescribed by the Secretary of the Treasury, but no more than one hundred dollars in value of articles purchased abroad by such residents of the United States shall be admitted free of duty upon their return.

See also William J. Gibson, page 6203.

PARAGRAPH 709—PERSONAL EFFECTS, ETC.

PERSONAL EFFECTS, ETC.

BRIEF OF IMPORTERS, PARAGRAPH 709, FREE LIST.

The WAYS AND MEANS COMMITTEE HOUSE OF REPRESENTATIVES,

Washington, D. C.

GENTLEMEN: We particularly desire to call your attention to an existing injustice which demands correction.

Under the present tariff act all articles imported from any foreign country into the United States are called upon to pay duty, fixed under the various sections and paragraphs of the act, excepting such articles as are particularly designated in the free list.

Paragraph 709 of the free list permits residents of the United States returning from abroad to bring in free of duty all wearing apparel and other personal effects taken out by them, without regard to value; and a decision of the Treasury Department of August 10, 1910, held that any such articles of wearing apparel or other personal effects so taken abroad, even if of foreign origin and repaired while abroad, should only be held liable for duty to the amount and value of the repairs.

In the case of all other articles of foreign origin, however, even though it be proven that they have paid full duty upon originally entering the country, if sent abroad for repairs, duty is charged upon their return upon the full original cost of the article.

In other words, an American citizen owning a Swiss watch valued at \$500 might take the same abroad, have \$20 worth of repairs done upon it, and on his return he would be called upon to pay duty only on \$20, while had he sent the watch abroad and the same repairs were made upon it, on its return he would be charged duty upon \$500.

The same is true as to fine mechanism made abroad. The best microscopes, polariscopes, and other mechanisms costing from \$50 to \$1,000, having been imported and duty paid thereon, if any accident necessitates their being sent abroad for repairs, they become liable to duty upon the full value on their return.

This is not only a great burden to the importer, or to the owner of the mechanism, but it is most inequitable and unjust, as well as exceedingly costly to the final purchaser. Fine precision instruments, most of which are made abroad, are expensive and so delicate as to be easily put out of repair, in which case they must be sent back to the workshops where they originated, as many of them are not as yet understood by the mechanics of this country and some are manufactured by secret processes. To attempt to repair in this country would be to ruin an expensive instrument; and yet even though the instrument has been in use 10 years, if sent abroad for the slightest repair, it is subject to duty upon its full original value on its return.

In many cases we have been forced to pay duty of \$50 and upwards upon mechanisms which we had had to send abroad for repairs that cost from 50 cents to \$2 only.

No question of foreign labor is involved, no question of competing with home production; merely the single question of a gross injustice which under the present law and regulations is enforced against us and our customers.

We therefore pray that the following be added to paragraph 709:

"Any article of foreign manufacture which has paid duty upon its original entry and is sent abroad for repairs, shall be entitled to reentry free, if the cost of the repairs be less than 10 per centum of the original entered value of the article; and if the cost of the repairs be more than 10 per centum of the original entered value, then it shall pay duty upon the full cost of the repairs at 60 per cent, under such rules and regulations of the Secretary of the Treasury may prescribe."

All of which is respectfully submitted.

EIMER & AMEND,

Importers Chemical Apparatus, New York.

FRANCIS E. HAMILTON,
Counsel, 32 Broadway, New York.

PERSONAL EFFECTS OF PERSONS TRAVELING ABROAD.

NEW YORK, February 5, 1913.

HON. OSCAR UNDERWOOD,
Chairman Ways and Means Committee,
Washington, D. C.

DEAR SIR: I have been watching the papers during all of your hearings on the proposed new tariff bill and have seen no mention of any help to be extended to American tourists returning from Europe.

PARAGRAPH 709—PERSONAL EFFECTS, ETC.

I and a great many others are of the opinion that the \$100 exemption is a bit unfair and we feel that we should be entitled to at least \$250 and possibly \$300 exemption.

If you would desire that I have a petition drawn up and signed by a great many people with whom I have talked this over, I will gladly do so, if you think it will be of any avail, but if you think that you would consider this matter without a petition I would feel greatly obliged to you to take it up. If you have ever traveled in Europe and have crossed the borders of Germany, France, Austria, etc., all of which countries have a tariff, you will have noticed with what courtesy and leniency all tourists, of whatever nationality, are treated. Why should we Americans returning to our own country be looked upon as perjurers, sneak thieves, and smugglers and be treated by the customs inspectors on the dock as if we were the above named. There is no question in my mind that if the Government was more liberal in its exemption agreement and in the handling of tourists it would pay in the end.

I trust that this communication will reach your eye and not go by the route of the paper basket.

Respectfully, yours,

JOSEPH LOEWI.

NEW YORK, February 10, 1913.

HON. OSCAR W. UNDERWOOD,
*Chairman Committee Ways and Means,
Washington, D. C.*

DEAR SIR: I have your favor of February 7, in answer to mine about the baggage exemption.

I notice by the leaflet you sent that you have eased up a trifle on the conditions, but seeing that the Democratic Party stands for a reduction in tariff, I think it only fair that the matter of raising the exemption from \$100 to a larger sum should be taken up.

It seems to be a well-known fact in New York, or at least that is the popular idea on the subject, that the department stores have been moving heaven and earth to have the exemption tax kept at \$100.

Won't you, therefore, while you are considering reductions in almost every branch of the tariff schedules, consider this matter of raising the \$100 exemption to somewhere in the neighborhood of \$250 or \$300? It would prove a very popular move and the amount certainly would not take away very much of Uncle Sam's revenue.

Trusting you will give the matter your consideration and thanking you for the courtesy of your reply to-day,

I am, yours, respectfully,

J. LOEWI.

NEW YORK, February 13, 1913.

HON. OSCAR W. UNDERWOOD, M. C.
*Chairman Ways and Means Committee,
Washington, D. C.*

DEAR SIR: I desire to enter my protest against the adoption of House bill 25883 of the Sixty-second Congress, introduced by Mr. Levy, of New York, or any measure incorporating the provisions of such bill, which provides for an increase from \$100 to \$300 in the exemption from the payment of duty on personal effects purchased abroad by returning tourists and brought in by them as baggage. My reasons therefor are based upon my experience as United States appraiser of the district of New York and my observation extending over a period of 22 years. Some reasons are the following:

First. The measure would deprive the Government of the greater portion of the revenue now derived from passengers' baggage. At the port of New York alone there have been collected from such sources during the past four fiscal years the following sums:

Year ending—	
June 30, 1909.....	\$703,895.00
June 30, 1910.....	1,448,344.48
June 30, 1911.....	2,305,562.20
June 30, 1912.....	2,382,965.77
Total for four years.....	6,840,767.45

Returns for the year June 30, 1910, illustrate the efficiency of the administration of Collector Loeb in enforcing the baggage laws of 1897 and 1909, which were identical.

PARAGRAPH 709—PERSONAL EFFECTS, ETC.

The greater portion of this sum was collected on personal effects of less than \$300 value per passenger. Should the amount admitted free of duty be increased from \$100 to \$300, the revenues derived from the duty on personal effects would be almost entirely wiped out.

Second. The Levy bill provides for an additional exemption of \$250 in value for the personal effects of American residents who have been "sojourning abroad for a period of nine months or more." This would cause a still further reduction of the revenues and would constitute a discrimination between passengers who are able to remain abroad only two or three months and those who are able to remain abroad for longer periods. This provision does not apply to those who have resided abroad for so long as to be treated as "foreign residents," but applies to those who travel about from place to place. The former are amply provided for under the existing law and the latter are amply able to bear their share of the assessed duties.

Third. The measure places the very wealthy upon a par with the poorest travelers. It is virtually a discrimination against the poor in favor of the rich. It is a greater, in fact a most outrageous discrimination against those who remain at home because they are not able to travel abroad. It is "class legislation" in its most offensive form.

Fourth. From an administrative point of view, it opens the door to frauds more extensive than any that have ever been practiced by tourists. It has always been difficult to appraise the personal effects of passengers for a number of reasons.

A. There are few facilities on any dock in the country for the examination and appraisal of passengers' baggage.

B. Passengers are not required to produce certified invoices of their purchases and, consequently, there is difficulty in fixing values. Generally the inspectors and examiners take the verbal representations of the passengers as to the prices paid.

C. There are not now enough examiners on the docks to properly appraise baggage. If the measure in question should pass, the force must be quadrupled, if the examination is to be effective.

D. In general it may be said that with the utmost diligence and integrity on the part of the customs officers, the hurry and confusion on the docks preclude the possibility of correct appraisement.

Fifth. The measure in question is a discrimination against honest importers who have paid their duties upon imported merchandise.

Sixth. It is discrimination against the retail merchant who has purchased goods upon which duty has been paid.

Seventh. It opens the way for dishonest merchants and their confederates to make large importations, and, through fraudulent misrepresentations, evade the payment of duty.

I say nothing of the domestic producers, who are also interested in the matter, but base my objections to the measure in question solely upon the fact that it is unjust to regular importers, retail dealers, and will deprive the Government. It is class legislation.

I may add that my experience of five years as United States appraiser, district of New York, leads me to believe that it would be more just to all concerned, and that the laws would be more honestly enforced, if the exemption of any portion of the personal effects of residents returning from abroad should be entirely abolished.

Very truly, yours,

W. F. WAKEMAN,
Former United States Appraiser, District of New York.

PHILADELPHIA, January 16, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman of the Ways and Means Committee,
United States Congress, Washington, D. C.

MY DEAR SIR: My official position on the staff of Wills Eye Hospital has brought me in contact with certain problems of the tariff question which I think ought to be considered in the preparation of a new tariff bill.

Some of the information I wish to convey has been obtained through discussion with various members of the Medical Club of Philadelphia, of which I happen to be president at this time.

I do not know whether this is the proper method of submitting such testimony, or whether I should appear before the committee. It is not possible at present for me to do this, but I might be able to arrange to do so at a later date, providing the matter is still in consideration at that time.

PARAGRAPH 709—PERSONAL EFFECTS, ETC.

With appreciation of any courtesy you may extend in this matter, and hoping that you may give the "Suggested modifications," which I inclose, the consideration which they deserve, I beg to remain,

Very truly, yours,

S. LEWIS ZIEGLER,
Executive Medical Officer Wills Hospital.

SUGGESTED MODIFICATIONS OF THE UNITED STATES TARIFF REGULATIONS.

[Inclosure.]

1. The present allowance of \$100 per capita for travelers is too small, as anyone making a summer tour in Europe will surely spend more than this amount in necessary purchases, not all of which are required for the journey. At least \$200 should be allowed to each individual.

2. This allowance should be made to cover all purchases and not those alone which are for the purpose of the journey. In other words, the "bale of hay" decision should be revived.

3. As the head of a family is required to pay for all the members of his family there should be no discrimination made as to the purchases made by each individual. In other words, if there are five members of the family the sum total for the five members should be allowed as a lump sum rather than as so much for each individual.

4. Physicians should have the privilege of bringing in free of duty for their own use all instruments, apparatus, and medical books under the classification of "Tools of trade."

5. If, however, a duty is assessed on instruments and apparatus 25 per cent would yield a sufficient protective revenue, as 45 per cent is unnecessarily high.

6. When instruments are imported and a whole or a part of the invoice is not according to specifications, or if when the package is opened it is found that the instruments are dull or broken and this is testified to under oath, it should be possible to claim a refund of duty, or else an equivalent invoice sent by the manufacturer in exchange should be admitted free of duty.

7. Instruments sent or carried abroad by the physician should be registered and readmitted free on presentation of certificate and the proper checking of list.

8. If instruments are sent or carried abroad for repairs the same procedure in registration should be observed and duty charged only on the repairs.

9. Models or samples forwarded by mail to physicians should be admitted free.

10. Hospitals should have the same privilege as institutions of learning of having their books, instruments, and apparatus admitted free of duty.

JACOB FRIEDENBERG, NEW YORK, N. Y., IN RE IMMIGRANTS' EFFECTS.

In view of the contemplated change of tariff, it might be well to call attention to the hardships and cruelties caused by the law and regulations regarding the effects and baggage of immigrants in general, and the Italian immigrants especially. There is scarcely any of them who does not recall his troubles when entering this country. Much of the difficulty in making regulations has arisen because due consideration has not been given to the different conditions surrounding immigrants, tourists (American and foreign), professional men, and commercial travelers.

Take paragraph 250, relating to household effects and articles used by him in his home. The law requires that these articles must be used at least one year abroad by the person coming to this country or by his immediate family.

Now, when leaving one's native country, forced to separate from parents and the nearest and dearest relatives, one is apt to be in rather difficult circumstances, and many of the valuable or useful articles of household furniture can not be brought because they have not been used one year.

The immigrant comes to this country to establish a home. Should he not be allowed to establish it as well as his means may afford? Would it be a great sacrifice on the part of the United States to cut the limitation "at least one year" and allow all used furniture and household articles of the immigrant to be imported free of duty?

Take paragraph No. 709, relating to personal effects of persons arriving in the United States. The law limits such articles to wearing apparel, toilet articles of personal adornment, when coming with the immigrant or so closely before or after him that they may be construed as actually accompanying him. Of course the immigrant arrives

PARAGRAPH 709—PERSONAL EFFECTS, ETC.

with some clothing on his back and a few of the above articles. Why should he not be allowed to bring other personal effects? Why should he be obliged to pay duty on a few edible articles that a kind or indulgent friend or parent may have given him, so as to enable him to live while en route to this country, or perhaps for a few weeks after he shall have arrived here? Is it not an outrage that duty should be taken from the immigrant as soon as he arrives, carrying a few of the articles necessary for his very existence for the first month in this country, when he needs his few dollars more than at any other time of his life?

Because of the difficulty in determining in many cases which are personal effects and which are household effects, would it not seem sensible to combine these two paragraphs into one and let the immigrant bring with him his used personal and household effects with the privilege of bringing in a few new articles coming to this country? Of course the new articles should be limited in value and quantity so as to avoid the abuse of this privilege. Surely no one would deny the right of an immigrant to have one or two suits of new clothing. No American citizen wishes to see people come to this country in tattered or torn rags. It certainly would be humane to let him bring in enough to support himself until he shall have gained a foothold in the country, and why should he not be allowed to bring in his effects within a reasonable time before or after his arrival, according to circumstances?

Again, take paragraph 645, relative to tools of trade, occupation, and employment. The law requires such tools to be in the actual possession of the immigrant. How absurd a proposition to require them to be in the berth with the passenger. A carpenter or a mason traveling to the nearest town would ship his tools by freight, and yet a person traveling from an inland town, across the ocean, and perhaps many miles in the United States, must actually encumber himself with heavy luggage, when the very safety of his person and of his family, who might be coming with him, require him to be as free and as untrammelled as possible. Should not these used tools of trade and other necessary implements of occupation be included in the same category as personal and household effects?

As the law now exists an immigrant must pay duty on a few household effects which are really worth bringing to this country or he must perjure himself to get them in free, because he must take an oath that household effects were used by him for one year abroad. He is not allowed to bring in any clothing that is necessary and suitable for the climate of the country into which he is going because they did not accompany him. He is not allowed to bring in his tools of trade, necessary means for his subsistence, except by the most unusual and troublesome means.

As a matter of fact, the article above summed up practically means the following: That household effects should not be limited to those used abroad for one year, that personal effects should include everything but merchandise of the person immigrating to this country, and that a reasonable amount of new articles may be included in the baggage.

A reasonable time should be allowed to bring in personal effects, so that the immigrant may at least have time to locate and establish a home. Tools of trade should be included as personal effects.

JACOB FRIEDENBERG.

PARAGRAPH 710.

Whalebone, unmanufactured.

PARAGRAPH 711.

Witherite.

PARAGRAPH 712.

Wood: Logs and round unmanufactured timber, including pulp woods, firewood, handle bolts, shingle bolts, gun blocks for gunstocks rough hewn or sawed or planed on one side, hop poles, ship timber and ship planking; all the foregoing not specially provided for in this section.

PARAGRAPH 713.

Woods: Cedar, lignum-vitæ, lancewood, ebony, box, granadilla, mahogany, rosewood, satinwood, and all forms of cabinet woods, in the log, rough, or hewn only, and red cedar (*Juniperus Virginiana*) timber, hewn, sided, squared, or round; sticks of partridge, hair wood, pimento, orange, myrtle, bamboo, rattan, reeds unmanufactured, india malacca joints, and other woods not specially provided for in this section, in the rough, or not further

PARAGRAPH 713—REEDS FOR WHIPS.

advanced than cut into lengths suitable for sticks for umbrellas, parasols, sunshades, whips, fishing rods, or walking canes.

For reeds see F. M. Cleveland, page 5841.

REEDS FOR WHIPS.

The COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

Section 713 of the free list of the tariff act of 1909 reads in the second clause as follows: "Sticks of partridge, hair wood, pimento, orange, myrtle, bamboo, rattan, reeds unmanufactured, India malacca joints, and other woods not specially provided for in this section, in the rough, or not further advanced than cut into lengths suitable for sticks for umbrellas, parasols, sunshades, whips, fishing rods, or walking canes."

We respectfully request that this clause be amended by the omission of the words "reeds unmanufactured." Reeds are manufactured from rattan, and the present wording of the tariff makes a conflict between the free list and section 212 of Schedule D, under which reeds are subject to duty. The customs authorities have construed that reeds of sizes suitable for the manufacture of whips from one-quarter inch in diameter and larger should be allowed free entry under this clause in the free list. Such reeds can not be unmanufactured, as they are made only by the process of splitting rattan, and they ought not to come in free of duty, as should rattan itself.

We request that rattan be left on the free list. It does not grow in the United States, and is allowed free entry into other countries, and particularly into Germany, which imports more than twice as much rattan as is shipped to all other parts of the world combined.

Yours, respectfully,

HEYWOOD BROS. & WAKEFIELD Co.,
By FRED. M. CLEVELAND.

PARAGRAPH 714.

Works of art, drawings, engravings, photographic pictures, and philosophical and scientific apparatus brought by professional artists, lecturers, or scientists arriving from abroad for use by them temporarily for exhibition and in illustration, promotion, and encouragement of art, science, or industry in the United States, and not for sale, shall be admitted free of duty, under such regulations as the Secretary of the Treasury shall prescribe; but bonds shall be given for the payment to the United States of such duties as may be imposed by law upon any and all such articles as shall not be exported within six months after such importation: Provided, That the Secretary of the Treasury may, in his discretion, extend such period for a further term of six months in cases where applications therefor shall be made.

PARAGRAPH 715.

Works of art, collections in illustration of the progress of the arts, sciences, or manufactures, photographs, works in terra cotta, parian, pottery, or porcelain, antiquities and artistic copies thereof in metal or other material, imported in good faith for exhibition at a fixed place by any State or by any society or institution established for the encouragement of the arts, science, or education, or for a municipal corporation, and all like articles imported in good faith by any society or association, or for a municipal corporation for the purpose of erecting a public monument, and not intended for sale, nor for any other purpose than herein expressed; but bonds shall be given under such rules and regulations as the Secretary of the Treasury may prescribe, for the payment of lawful duties which may accrue should any of the articles aforesaid be sold, transferred, or used contrary to this provision, and such articles shall be subject, at any time, to examination and inspection by the proper officers of the customs: Provided, That the privileges of this and the preceding section shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character.

PARAGRAPH 716.

Works of art, productions of American artists residing temporarily abroad, or other works of art, including pictorial paintings on glass, imported expressly for presentation to a national institution, or to any State or municipal corporation or incorporated religious society, college, or other public institution,

PARAGRAPH 716—PAINTINGS ON GLASS.

except stained or painted window glass or stained or painted-glass windows, and except any article, in whole or in part, molded, cast, or mechanically wrought from metal within twenty years prior to importation; but such exemption shall be subject to such regulations as the Secretary of the Treasury may prescribe.

PAINTINGS ON GLASS.

STATEMENT SUBMITTED BY FREDERICK E. MAYER.

PHILADELPHIA, *February 4, 1913.*

MR. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee,
Washington, D. C.

DEAR SIR: I noted with pleasure last Saturday morning your interest in the testimony of Mr. T. M. Lane, who presented the case of Messrs. Mayer & Co. and Messrs. Benzinger Bros., importers of ecclesiastical supplies. Mr. Lane's plea in behalf of the free entry of sculpture intended for church use is closely related to another subject, to which I wish to call your attention, viz: Mr. Lane's testimony on January 9 in which he advocated a change in paragraph No. 716, so as to permit the free entry of stained-glass windows intended for church use.

I first learned of Mr. Lane's testimony on Friday afternoon and immediately wrote a brief in which I endeavored to refute some of the statements of Messrs. Mayer & Co. The brief was filed with your committee and will be a part of the revised testimony. Having been written in a very short time, it is necessarily incomplete in some phases of the subject and I therefore take the liberty of submitting to you personally the following additional data:

First. There are two distinct types of church memorial windows—the European type, known as the stained-glass window; and the American type, known as the American opalescent window.

Second. The methods by which each type of window is made are radically different. Stained-glass windows are made of "antique" glass, a special kind of glass made in Europe. The American artist having an order for a stained-glass window imports the "antique" glass in the raw state, i. e., in sheets, then fabricates the window here, using exactly the same method as that employed by the European manufacturer. The stained-glass window is painted throughout its entire surface.

The American opalescent window, on the contrary, is an unpainted window, the only painted parts being the flesh parts, i. e., faces, hands, etc. This type of window is made of glass made exclusively in America and known as American opalescent glass.

Third. European manufacturers make the stained glass window only. American artists can and do make both types of window.

Harry Goodhue, of Boston, makes stained-glass windows exclusively.

Nicola D'Ascenzo, of Philadelphia, makes both types.

The Gorham Co., of New York, has a stained-glass department in which they make stained glass exclusively.

J. & R. Lamb, of New York, make both types of windows.

Willett, of Pittsburgh, makes both types.

Rudy Bros., of York, Pa., and Pittsburgh, make both types.

Fourth. We all feel that there is a promising field in America for the maker of stained-glass windows, particularly with the Catholic and Episcopal bodies, who nearly always prefer the stained-glass window, but this field can not be cultivated without the assistance of the present 45 per cent ad valorem duty. Even under the present tariff, Messrs. Mayer & Co. are always under our prices.

Fifth. The data contained in my brief refers to stained-glass windows only, thus when I say, "About 85 per cent of stained-glass windows sold to American churches are made by foreign manufacturers," I do not include in that estimate the American opalescent window.

Sixth. If you give stained-glass windows, intended for church use, the privilege of free entry, it would necessarily affect the selling price of the American opalescent window as well, for the removal of the present restrictions would immediately widen the field of the European manufacturer and would enable him to underbid us all along the line. The American maker of stained glass would either have to give up making stained-glass windows in America, except those special windows ordered under conditions free from competition, or he would be forced to open a workshop in Europe in order to compete successfully for the American trade.

PARAGRAPH 717—WORKS OF ART.

Seventh. Changing paragraph No. 716 so as to give free entry to the stained-glass window would make paragraph No. 109 noneffective as a revenue producer. Virtually all stained-glass windows imported into America for church purposes are donations to the church. If your appraiser were to attempt to place a value upon the stained-glass window thus imported he would immediately be confronted with the statement that the window in question is a gift to a certain church and can not be subject to a tax.

Eighth. Our raw material (antique glass) is imported under the specifications contained in paragraph 99. There is not a scrap of good antique glass made in America. We are willing to pay the duty on our raw material on condition that the present restriction on imports of foreign stained-glass windows be retained. The granting of free raw material—i. e., free antique glass—would, however, help us very little. The cost of antique glass contained in a \$1,500 stained-glass window would cost about \$75, the remainder being charged to labor, overhead charges and a fair profit. The labor item is, and always has been, the great item of cost in the stained-glass window.

Having made this short explanation, I would respectfully ask that you read my brief which will take only a few minutes more of your time.

Should you desire additional data relating to this matter we will furnish same immediately.

Thanking you in advance for your attention, we beg to remain,

Yours, respectfully,

THE D'ASCENZO STUDIOS,
Per FREDERICK E. MAYER.

PARAGRAPH 717.

Works of art, including paintings in oil, mineral, water, or other colors, pastels, original drawings and sketches, etchings and engravings, and sculptures, which are proved to the satisfaction of the Secretary of the Treasury under rules prescribed by him to have been in existence more than twenty years prior to the date of their importation, but the term "sculptures" as herein used shall be understood to include professional productions of sculptors only, whether round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, or metal; and the word "painting," as used in this act, shall not be understood to include any article of utility nor such as are made wholly or in part by stenciling or any other mechanical process; and the words "etchings" and "engravings," as used in this act, shall be understood to include only such as are printed by hand from plates or blocks etched or engraved with hand tools, and not such as are printed from plates or blocks etched or engraved by photo-chemical processes. Other works of art (except rugs and carpets), collections in illustration of the progress of the arts, works in bronze, marble, terra cotta, parian, pottery, or porcelain, artistic antiquities, and objects of art of ornamental character or educational value which shall have been produced more than one hundred years prior to the date of importation, but the free importation of such objects shall be subject to such regulations as to proof of antiquity as the Secretary of the Treasury may prescribe.

WORKS OF ART.

R. F. DOWNING & Co.,
New York, February 20, 1913.

HON. OSCAR W. UNDERWOOD,
*Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.*

DEAR SIR: I beg to call your attention to the provisions of paragraph 717 of the act of August 5, 1909, allowing free entry of paintings and other works of art which have been in existence more than 20 years prior to the date of their importation. Also artistic antiquities which have been produced more than 100 years prior to date of importation.

There does not seem to be any good reason why articles of this kind should be accorded free entry. They are imported as a rule by a wealthy class of people who can well afford to pay the duty on same. When ordinary articles which are applied to the same use are imported duty must be paid thereon by the ordinary importer, and as the tariff law which is to be enacted, and which is now being considered by your committee, is understood to be a tariff for revenue, I would suggest that paragraph 717 be eliminated and that the articles mentioned therein be made dutiable under other provisions in the tariff act which provides for such articles.

Yours, respectfully,

M. W. BURCKARD.

MISCELLANEOUS.

MISCELLANEOUS.

BRIEF OF JAMES L. GERRY, WASHINGTON, D. C., REGARDING THE CHEMICAL SCHEDULE.

WASHINGTON, D. C., February 7, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee,
House of Representatives.

DEAR SIR: I have the honor to invite your attention to one of the features of the chemical bill introduced at the last special session which I feel should be modified in some measure—the suggestion made that the rates provided for in the basket clauses or catch-all provisions should be at least commensurate or equivalent to the general average of the rates provided for in the entire bill.

In the first place, I think it utterly unwise that the basket clause of any act should specify a rate much lower than a majority of the rates provided for under *eo nomine* provisions; but this principle is vitally important with respect to the chemical schedule for a number of reasons. A slight change in any given formula, the addition of some reagent, will change the character of a particular commodity to such an extent that it will be taken out of the *eo nomine* provision and carried into the basket clause. Now, if the rates applied to articles which are specifically provided for range anywhere from 25 up to 60 per cent *ad valorem* and the basket clause provides for a rate of 15 per cent *ad valorem*, then obviously a very consistent effort will be made to get everything possible out of the specific designations into the basket clauses.

In order to indicate the correctness of my statement in this regard I have attached to this letter a list of the articles, citing in connection therewith the decision of the Board of General Appraisers, which have been held dutiable under the first basket clause which appears in the act. It has been maintained by some that the catch all provision should specify a rate not lower than the highest rate mentioned in the act, but in view of the fact that there are certain rates which are intended to be more or less prohibitive or onerous, as, for instance, on cocaine, opium, and saltpeter on the one hand, and such articles as cologne, toilet soaps, on the other hand as luxuries—this suggestion, in my mind, would not be fair; but the rates provided for in those basket clauses should certainly not be lower than the great bulk of the merchandise imported under that specific class, and if this principle were to be followed, then the rates provided would be approximately 25 or 30 per cent.

There is another reason which appeals very strongly to the Treasury Department in this connection, and I may say right here, without violating any confidence, that the people in the Customs Division of the Treasury Department agree with me in the statement outlined above, and that is that any marked difference as between the rates provided for in the body of the act and those specified in the basket clauses will inevitably lead to litigation, and this is evident from the list of decisions which I have submitted, bearing in mind that with respect to those decisions the basket clause provided for a rate of 25 per cent. This recommendation is made without any suggestion whatsoever as to any given rate which this committee may see fit to impose upon any given article, and the committee may proceed to increase the *eo nomine* provisions to any extent that in its judgment may be deemed wise and proper. My whole proposition is addressed to the necessity as an administrative feature of providing in the basket clauses, and particularly in the basket clauses of the chemical bill, of rates which are to some degree in excess of the general average or equivalent *ad valorem* of all of the rates provided for in the body of the act.

I have the honor to remain, very respectfully, yours,

JAMES L. GERRY.

SCHEDULE OF DUTIES UNDER THE TARIFF ACT OF AUGUST 5, 1909. IN EFFECT AUGUST 6, 1909.

Schedule A, paragraph 3, of above act, reads as follows:

3. Alkalies, alkaloids, distilled oils, essential oils, expressed oils, rendered oils, and all combinations of the foregoing, and all chemical compounds, mixtures, and salts, and all greases not specially provided for in this section, twenty-five per centum ad valorem; chemical compounds, mixtures, and salts containing alcohol or in the preparation of which alcohol is used, and not specially provided for in this section, fifty-five cents per pound, but in no case shall any of the foregoing pay less than twenty-five per centum ad valorem.

Articles listed in paragraph 3.

Acetone, as chemical compound (T. D. 7210, 11974, 29031).
 Albumen, liquid, water and gelatin (T. D. 12794).
 Albumen substitute (T. D. 9198, 12794).
 Alkalies, alkaloids, and all combinations thereof, n. s. p. f. (T. D. 18348)
 Alkaloids, n. s. p. f.
 Alum substitute.
 Alumina anhydrous, as chemical salt (T. D. 16758).
 Alumina carbonate.
 Alumina, chlorate of, as chemical salt.
 Ammonia:
 Acetate.
 Nitrate of.
 Phosphate of, as chemical salt.
 Antimonsaure, as chemical salt (T. D. 17854).
 Antique oil.
 Ashes, beet root artificial, as chemical compound (T. D. 9142).
 Barium dioxide (T. D. 24938).
 Baryta:
 Acetate, as chemical salt.
 Artificial, as chemical salt (T. D. 3378).
 Carbonate of, precipitated (T. D. 28921).
 Chlorate of, as chemical salt (T. D. 2117, 6301).
 Nitrate, as chemical salt (T. D. 6172).
 Barytes, muriate of.
 Bay rum, essence or oil (T. D. 1338, 2644).
 Benzoates.
 Birch oil, distilled oil (T. D. 12333).
 Bismuth, oxide of.
 Bleaching liquid (T. D. 10006).
 Bone grease (T. D. 2422, 25550).
 Bone size, substitute (T. D. 25604).
 Borate of Manganese (T. D. 25315, 25515).
 Bormangon (T. D. 25315).
 Bromide of potassium.
 Bromin.
 Brucine, chemical compound.
 Burning fluid.
 Cachou de Laval, as chemical compound (T. D. 11420, 21310).
 Caffeine.
 Camphylene, eucalyptol, as chemical compound (T. D. 15028).
 Camphor substitute (T. D. 28817).
 Carbon, bisulphate and bisulphide (T. D. 11416).
 Carminamide, as chemical compound (T. D. 11535).
 Cassie, liquid (T. D. 28910).
 Chemical compounds, mixtures, and salts (T. D. 6758, 18521, 23337, 23426, 25315, 25462, 25805, 26065, 26693, 28058, 29535).
 Chemical compounds and salts, containing alcohol, or in the preparation of which alcohol is used, n. s. p. f. per pound 55 cents, but not less than 25 per cent.
 Chemical salts, n. s. p. f. (T. D. 9457, 24938, 29003).
 Chloralamide, as chemical compound.
 Chlorbarium (T. D. 581, 763, 6301).
 Chlorin, liquid.
 Chromalum, as chemical compound (T. D. 29701).
 Chromium fluorin, as chemical salts (T. D. 13602).
 Citrated kali, chemical compound (T. D. 6006).

- Civet, essence (T. D. 28741).
 Clarifying powder, for wines (T. D. 8855).
 Cochineal ammoniated, as chemical compound (T. D. 11535).
 Copper, acetate of (T. D. 2341, 13588, 15549, 17845, 22942).
 Copper:
 Paste or sulphide of (T. D. 1863).
 Sulphide of (T. D. 1863).
 Coumarin (T. D. 4288, 16855, 22531).
 Crystals, tin.
 Cumarin, as chemical salts (T. D. 13061).
 Direct black, as chemical compound (T. D. 15119).
 Discrotante, as chemical compound.
 Disinfecting liquid, as chemical compound (T. D. 22139).
 Distilled oils, n. s. p. f.
 Dulcin, as chemical compound (T. D. 19196, 23666).
 Essence bay rum.
 Essence, concrete, other than flowers (T. D. 26181).
 Essence, concrete, compounds of (T. D. 25023).
 Essence, rum (T. D. 26443).
 Essential oils.
 Expressed oils.
 Extract of leaves (T. D. 29119).
 Gaduol, as chemical compound (T. D. 25069, 25984, 25993, 26065).
 Gardenia (T. D. 25023).
 Germicides (T. D. 22139).
 Gloy (T. D. 25972).
 Gloy, octopus, chemical compound (T. D. 24372, 25972).
 Glue, vegetable, a chemical compound.
 Glycerophosphates of lime (T. D. 29535).
 Glycine (T. D. 25023).
 Gold:
 Muriate of.
 Oxide of.
 Grease:
 Mineral, as expressed oil (T. D. 10851).
 N. s. p. f.
 Oil and alkali mixed, as chemical compound.
 Gum, olibanum, with chemical salts (T. D. 10232).
 Heliotropin (T. D. 4288, 27873).
 Hydrolein or soap powder.
 Ichthyol:
 As chemical compound (T. D. 9408, 23337).
 Preparations or salts, n. s. p. f. (T. D. 30315).
 Sodium (T. D. 30315).
 Iodine, salts of.
 Iron:
 Acetate of, as chemical salts
 Hydrated oxide of, chemical salt (T. D. 9265).
 Liquor, chemical compound.
 Nitrate of.
 Kali, citrated (T. D. 6006).
 Lapis infernalis, nitrate of silver.
 Laurel oil.
 Lead:
 Chloride of.
 Linoleate (T. D. 28361).
 Oleate of, chemical compound.
 Tannate, chemical compound.
 Leaves, extract from (T. D. 29119).
 Lime:
 Acetate of.
 Bisulphate of (T. D. 13071).
 Phosphuret of.
 Magnesia:
 Acetate of.
 Bromide of.
 Carbonate, technical, not medicinal (T. D. 28181).

Magnesia—Continued.

Chloride of (T. D. 8092, 8138).

Citrate (T. D. 5949, 6291).

Manganese:

Borate of (T. D. 25315).

Carbonate, phosphate, sulphate, etc.

Chloride.

Oleate of, chemical compound.

Oxide of, so called, but a chemical salt (T. D. 3410).

Mannite, chemical compound (T. D. 17926).

Mercury sulphate, chemical compound (T. D. 12698).

Mercury sulphocyanite, nitrate, crystal, oxycyanide, bichloride, chemical compounds (T. D. 22970).

Mineral, grease, as expressed oil (T. D. 10651).

Mixtures, chemical, n. s. p. f.

Muroxide, a dye, chemical compound.

Musk, artificial, a chemical compound (T. D. 26693).

Mustard, oil, expressed (T. D. 9859, 13589).

Nickel sulphate.

Nutmegs, essential oil of (T. D. 6253).

Octopus gloy, chemical compound (T. D. 24372).

Oil:

All distilled, essential, expressed, and rendered, and combinations of the same (T. D. 2848, 3318, 4085).

Bitter, artificial (T. D. 21873, 27674).

And alkali, mixed, as chemical compound (T. D. 13564).

Angelica (T. D. 8992).

Betulinum, as distilled (T. D. 12333, 12715).

Birch, as distilled (T. D. 12333).

Cade (T. D. 6882).

Celery, April 26, 1889, N. Y.

Combination of two free oils (T. D. 28659).

Crude light, distilled (T. D. 11983).

Distilled from shale (T. D. 7396, 28448).

Essential, expressed or distilled or rendered, n. s. p. f.

Eucalyptus (T. D. 8651).

Fat of turpentine (T. D. 7374, 25067).

Gardenia, chemical compound (T. D. 25462).

Bay rum, essential (T. D. 1338, 2644).

Marine, expressed (T. D. 14509).

Mustard, synthetic, as distilled (T. D. 9859, 13589).

Mustard, artificial (T. D. 9859, 13589).

Neat's foot.

Nutmegs (T. D. 8651, 15131).

Orris, concrete (T. D. 26181).

Patchouly (T. D. 8651).

Peanut and sesame mixed (T. D. 25646, 25780).

Recovered olive, as rendered oil (T. D. 22919).

Rendered.

Tar (T. D. 9634, 12333).

Wine, as essential (T. D. 13498).

Wintergreen, synthetic (T. D. 9859, 12137).

Oilene (T. D. 6143).

Oxidizing paste.

Paste, oxidizing (T. D. 1863).

Peptone, chemical compound (T. D. 12698).

Pilocarpine, nitrate and muriate.

Platinum, chloride (T. D. 26682).

Potash:

Acetate, chemical salt.

Bicarbonate (T. D. 4117, 11189).

Bisulphate of, chemical salt (T. D. 11053).

Permanganate, chemical salt (T. D. 1545).

Potassium, chloride (T. D. 21951).

Powder, clarifying, for wine (T. D. 8855).

Putty powder, chemical compound (T. D. 18521).

Rhodium, chloride of (T. D. 26682).

Rum:

Bay, essence or oil of.

Essence or oil of.

Sal acetosella, salts, August 27, 1857, Philadelphia.**Sal diuretic**, salts.**Salicylate of soda** (T. D. 3395, 4109, 4809).**Saltre lavande**, chemical compound (T. D. 17595, 17628).**Salts:**

Chemical, n. s. p. f. (T. D. 9217, 9715, 29003).

Chemical, containing alcohol or in the preparation of which alcohol is used, 55 per cent, but not less than 25 per cent.

Waste (T. D. 3874).

Santonin containing less than 80 per cent of santonin.**Siccatif**, or varnolette, as chemical compound (T. D. 22591).**Silver:**

Nitrate of.

Salts.

Smelling salts, chemical compound, alcoholic (T. D. 7381, 20291), per pound, 55 cents, not less.**Soadine**, chemical compound (T. D. 26635).**Soap**, powder, as chemical compound.**Soda:**

Acetate, carbonate, hyposulphate, phosphates, salicylate, and all salts of, n. s. p. f.

Carbonate, combined with lime (T. D. p. 1126).

Citrate of (T. D. 722).

Hydriodate of, salts.

Hyposulphate of, salts.

Stannate (T. D. 1584).

Sulphite, chemical salt (T. D. 18006).

Sodium fluosilicate (T. D. 30382).**Solanin** (alkaloid).**Solide**, siccatif (T. D. 22591).**Stearin** (T. D. 5049, 5091, 9220, 13818, 30335).**Strontia:**

Acetate of.

Muriate of, as chemical compound.

Nitrate of, as chemical compound (T. D. 6172).

Precipitated carbonate (T. D. 17624).

Sulphides, n. s. p. f., chemical compounds.**Sulphur**, carbonate of lime and magnesia ground together (T. D. 8816).**Sulphurets** or sulphides n. s. p. f.**Tanninoenopepin**, chemical compound (T. D. 17409).**Tar**, birch, as distilled oil (T. D. 12715).**Tartar**, salts of granulated and purified (T. D. 4575).**Terpinol** (T. D. 29262).**Thein**, or caffein.**Tin:**

Crystals.

Muriate of.

Nitrate of.

Oxide of.

Oxymuriate of.

Trophoderme (T. D. 14520).**Turpentine**, fat, oil of (T. D. 7374, 25067).**Urea**.**Varnolette** (T. D. 22591).**Vegetable oils**, essential or expressed.**Verdigris**, distilled, chemical compound (T. D. 8593).**Vitran** (T. D. 29099).**Washing crystals of soda and borax** (T. D. 4123).**Water**, ammonia.**Ylang-ylang oil**.**Zinc:**

Acetate of.

Chlorid in solution (T. D. 4440, 13070).

Salts, chemical salts.

Zinnsaure, chemical salt (T. D. 16213, 17813).

BRIEF OF ROBERT LANYON ZINC & ACID CO., RE SPELTER.

St. Louis, Mo., February 25, 1913.

HON. OSCAR W. UNDERWOOD, Chairman,
Washington, D. C.

DEAR SIR: This is to state that we are manufacturers of spelter—by which is meant pig or block zinc—having just recently built a new plant at Hillsboro, Ill., and are now in partial operation, and expect in a few days to be in full operation.

We fear that any tampering with or lowering the tariff on spelter will materially affect the welfare of this industry in this country, and the large number of men employed in same.

The present rate of duty on spelter is \$1.37½ per 100 pounds, which is the lowest duty it has ever been, it having been reduced on two or more occasions in the past few years. You will note the duty on pig lead is \$2.12½ per 100 pounds. Now, we contend that no such difference in the two duties on these two articles should ever have existed, and that spelter, owing to its world's value and nature, should properly pay the higher rate of duty in place of lead.

We have compiled and hereto attach a list of the average prices of lead and spelter in London, from the years 1881 to 1912, inclusive, showing that the average price of lead was \$2.86 per 100 pounds, while the average price of spelter was \$4.28 per 100 pounds, a difference of \$1.42 per 100, or about 50 per cent. To show that this is a difference which is still in existence we also attach hereto current quotations for February 18, showing the London price of spelter to be £25 per ton, and lead £16½ per ton, which shows spelter still slightly more than 50 per cent higher than lead. London is and has been the free-trade market of the world, so that this difference in relative prices proves what we contend, that the cost of mining and smelting into metal of zinc is a much more expensive and tedious operation involving a vastly larger amount of capital investment and labor employed than is the case in the production of lead. Consequently spelter should have always and should now pay a higher rate of duty than lead, in order that the same proportion of reasonable protection be accorded.

We have learned that it is proposed to put lead upon a 25 per cent ad valorem basis. As to lead, we really have not much to say, except in drawing the above comparison, for we are not producers of lead and not directly interested in any change of the duty thereon. We do contend, however, that spelter should pay a higher ad valorem basis than lead, and should not be less than 30 per cent, as compared with lead at 25 per cent, and in no event should spelter be placed on a lower ad valorem basis in your tariff schedule than is pig lead.

The cost of erecting and equipping a plant for the production of spelter from its ore is at least four times as great as is necessary with relation to the production of lead from its ore, which can be easily shown upon inquiry. Likewise in the operation of spelter (zinc) smelting works, the cost for fuels, labor, and other supplies is from two to three times as great as in the smelting of lead from its ore.

We are paying workmen in our plant an average of fully 100 per cent in wages more than is being paid for the same labor in Swansea, England, Belgium, France, and Germany.

Another special feature in regard to spelter is that the foreign production, which is more than double that of the entire United States, is now and has been for a number of years past absolutely controlled as to production and prices by a very strong syndicate who are in position to maintain prices in their market and dump any surplus on our market at a less price than they maintain in their own market.

We ask this question, Is it good, fair, reasonable, or business-like policy for our Government to permit foreign syndicates and trusts to do and perform those things abroad which if done in this country would be contrary to our laws governing such conspiracies, and then permit them to make a dumping ground of our markets to suit their whims or schemes?

We were unable to be personally represented in the hearings at Washington, but sincerely hope that you will be able to have this letter and the attached exhibits included in the report of testimony, which I note you have recently arranged to have printed.

Yours, very truly,

THE ROBERT LANYON ZINC & ACID CO.,
Per WM. LANYON, Proprietor.

[Inclosure 1.]

Comparative price per pound on lead and spelter in London, 1881 to 1912, inclusive.

Year.	Lead.	Spelter.	Year.	Lead.	Spelter.
1881.....	\$3.25	\$3.53	1900.....	\$3.69	\$4.40
1882.....	3.13	3.69	1901.....	2.72	3.70
1883.....	2.81	3.33	1902.....	2.45	4.03
1884.....	2.59	3.14	1903.....	2.51	4.56
1885.....	2.51	3.04	1904.....	2.60	4.91
1886.....	2.87	3.10	1905.....	2.98	5.51
1887.....	2.80	3.30	1906.....	3.77	5.88
1888.....	3.02	3.93	1907.....	4.15	5.18
1889.....	2.84	4.30	1908.....	2.93	4.38
1890.....	2.91	5.05	1909.....	2.83	4.82
1891.....	2.70	5.05	1910.....	2.80	5.01
1892.....	2.34	4.52	1911.....	3.01	5.49
1893.....	2.07	3.78	1912.....	3.89	5.74
1894.....	2.05	3.35			
1895.....	2.34	3.17	Average.....	2.86	4.28
1896.....	2.43	3.60			2.86
1897.....	2.64	3.80			
1898.....	2.82	4.44	Average difference.....		1 1.42
1899.....	3.22	5.40			

1 Equals about 50 per cent.

[Inclosure 2.]

LONDON, February 18.—The spelter market closed at £25, making the price as compared with yesterday unchanged.

LONDON, February 18.—The lead market closed at £16 7s. 6d., making the price as compared with yesterday 2s. 6d. lower.

BRIEF OF GRUEN WATCH MANUFACTURING CO., CINCINNATI, OHIO.

CINCINNATI, OHIO, *February 27, 1913.*

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: Noticing brief of Roscoe C. McCulloch, for certain watch companies, with its many statements, which are apt to mislead one who is not posted upon the true facts, we feel that it is due to the thousands of dealers and buyers of watches that some one unfold the other side of the story for the benefit of the greatest number and not, as in the past, allow their representations to go practically unchallenged. We do this reluctantly, as we have never cared to be drawn into tariff matters.

The Gruen family having been connected with the manufacture of watches since 1876, in the United States and abroad, it places us in an exceptional position of knowing both sides of the question and no matter how the tariff is changed—whether increased or reduced—affects us accordingly, as we have one factory in Cincinnati and another in Madretsch-Biel, Switzerland. What we want is a fair tariff of reasonable protection that will bring a good revenue and that will equalize any difference in the cost of manufacture.

We believe the committee is of the opinion that Schedule C, paragraph 192, relative to watch movements, is too high. If this section is put entirely on specific duty, as desired by some interests, a prohibitive rate will be made on most grades and thus reduce the revenue. We think this specific duty is contemplated merely as a blind to make it appear that the duty had not been increased, whereas, in fact, it would be an increase over existing rates to the extent of 122 per cent. By this change from ad valorem to specific, they could further raise the price of their watches to the American public and dealers, as they did the last time—50 cents on all cheap seven-jewel watches and correspondingly on others—the day after the bill was passed. There certainly will be a great protest from thousands of dealers and railroad men when this becomes generally known.

It is claimed that American manufacturers can not do business abroad, on account of being unable to compete. In answer to this we respectfully submit a copy of the report, dated February 12, of the Canadian Department of Trade and Commerce at Toronto, giving the value of imports for home consumption in Canada: Watches from United States for seven months ending October, \$552,320; watches from Switzerland

for seven months ending October, \$260,771. This does not look as if American factories were unable to take care of competition and get business in foreign countries.

Attached hereto, a Howard watch advertisement (on file) is another illustration of where an American manufacturer claims he is getting business abroad. This company, as you can see, advertises that the American tourist, instead of buying a Swiss watch in Europe, buys an American watch over there and brings it back home, further emphasizing the fact that Swiss watches can not compete with American watches even in Europe, according to their advertisements, so one or the other of the statements must be in error.

Illustrating what the proposed specific duty schedule really means in the way of increases, the table below shows the three averages, which are based on the average import cost value:

	Average cost.	What it would be with the present tariff.	Proposed specific tariff in brief of McCulloch for American Co.'s.	Per cent of increase over the present tariff.	Total rate if proposed duty were ad valorem instead of specific.
				<i>Per cent.</i>	<i>Per cent.</i>
17 jewel, unadjusted.....	\$1.80	\$1.70	\$2.75	62	143
17 jewel, adjusted, 5 positions.....	6.50	2.88	6.50	125	100
More than 17 jewel.....	7.50	4.87	10.75	122	133

At a glance you can see how they are trying to hide the increased ad valorem rate through a specific duty and make the public believe there had been a reduction. One of their greatest claims is undervaluation. The average price of the watch imported is equal to the average manufacturing price of the American watch, if grade for grade is taken into consideration, which is about \$6.50 apiece average for all watches made of Waltham quality, and 90 cents for such as come in class of Ingersoll and Standard watches. How, then, can there be any undervaluation?

We further submit, marked "A," price list of Hampden watches (on file), to show the unreasonableness of this specific schedule, and tabulate four grades of their watches, which correspond to the other leading makes, giving the wholesale price at which the jobber buys them and in another column the proposed duty they want placed on an equal grade foreign watch:

Watch grade.	Price to jobber.	Proposed specific duty of McCulloch in brief.
Special Railway, 21-jewel.....	\$13.46	\$10.75
Dueber, 21-jewel.....	10.01	10.75
Dueber Grand, 17-jewel.....	5.41	4.75
Dueber, 15-jewel.....	3.50	2.00

This shows what Dueber sells them for and that upon these prices they make a profit. At that, they want protection equal to the total cost to produce by their factory or a duty almost equal to their selling price on some grades. In other words, their assumption that that much protection is necessary means the foreign companies get their labor and materials gratis. This is trying to make the duty equal the total cost of what a jobber pays for the watches here, for American watches. It looks to us as if they asked a great deal in order to have these figures cut in half or three-quarters, so that the final bill which is passed will still be high and an increase over what it was.

It is true, as they say, that the Swiss excel in the art of making higher quality watches, with greater accuracy in the higher precision class. A large percentage of watches imported is of such a character that they can not be made in America, namely, very thin model and very small ladies' watches and complicated watches, which never enter into competition.

We wish to state most emphatically that the quality of a watch is not determined by the number of jewels or the markings engraved on the plates. This marking of a watch adjusted should be left entirely to the manufacturer. Any of the first-class

watch dealers or retail stores, such as Spaulding & Co., Chicago; Tiffany & Co., New York; Bailey, Banks & Biddle, Philadelphia; Samuel Kirk & Sons Co., Baltimore, and many others, who have departments that buy watches of leading makes from all parts of the world, can verify the statement made above. No fine manufacturer in Europe judges a watch by its markings, nor does any first-class retail watch store. Their chief argument as to why they want markings is—as they claim—to prevent undervaluations, but their real reason is to harass the foreign manufacturer.

Watch movements are not such mysterious articles that the average person can not tell the difference between grades. On the other hand, it is comparatively easy for almost anyone to pick relative classes of watches. Of course, to determine close valuation requires some experience. Furthermore, with comparative ease, the Customs Department can find out in Switzerland the class of merchandise manufactured by various large concerns, as nearly all specialize on grades within close range of price, although there may be from 15 to 21 jewels, still are practically the same priced article, and only in a very few factories, specializing on extra fine complicated watches, is there a great range of price. Cheap, medium, and high-class watches are never made in the same factory. Swiss factories specialize either to make a cheap or high-grade watch; never the two classes in the same factory. That is one reason why they excel in certain specialties.

So it is really easier for the department to determine values than in many other lines, where one would really never consider specific duties; so to our minds undervaluation is prevented by customs official regulations.

Jewels do not make or truly indicate a grade. The value of the movement is made up of (1) quality of material used, (2) fineness of finish of same, (3) adjustments.

As to the first, one can put different qualities of material in any movement regardless whether 15 or 21 jewel.

As to the second, as example, a single finely finished balance wheel will cost as much to make as what a cheap 21-jewel complete movement does.

Last, adjustments—where there can be spent a great deal of time and money—you can not regulate the value by engraving the number of positions, because any watch is adjusted to position as long as it does not stop when put in a different position. That is true of a seven jewel of the cheapest character. Of course, what is generally understood by adjustments is something entirely different, but it is impossible to control that by engraving. We know an attorney for the watch companies wanted a limit of position variations set. What he asked you to do is better than requirements to secure a new class A certificate, for which one American company gave testimony before you that only 30 out of 50 secured class A, although especially adjusted for the test, and this is a \$400 article, and there is no company in America that can fulfill these specifications.

So you can see that it is not practical to expect it out of the general run of movements imported, all grades—merely because it has a large number of jewels.

Regarding the difference between wages in Switzerland and America. This is by no means as great as they would make it appear. If each class of manufacture is taken into consideration, you will find the average very little less; in those Swiss factories, where the better class of goods is manufactured, the average is considerably higher than in the places where only cheap watches are made. The same thing applies to this country.

In the Gruen factory we manufacture a grade equal to the better grade of American watches and from that up into a class of watches of higher grade, such as are not made in America. The underlying reason for our manufacturing abroad is to insure and control absolutely the continuance of uniform quality from year to year for this particular class of goods that can not be made here, although to do this costs us more money than if we simply imported and bought the goods elsewhere. Our average of wages is 11 francs a day (\$2.20), with a minimum of 5 francs to a maximum of 18 francs, with far greater part men employed. They state the labor unions in Switzerland establish a wage of 5 francs a day. That is the minimum wage at which any one can start and not the maximum, or the average. One of their own men, who worked in Swiss factories, admits an average of \$1.75 a day, which is about correct in factories where medium-grade goods are manufactured. So, by comparing the average of \$2.40 in the Elgin factory with the average of \$2.18 in the Illinois factory, with \$2 for an average in a Swiss factory of a corresponding quality, shows that there is very little difference in labor cost in the two countries.

The house industry consists mainly in making the very cheapest class of goods, such as is seldom manufactured in this country, mostly cylinder watches, and not in competition with American factories. Statistics show that not more than 10 per cent of the total watches manufactured in Switzerland are made under this house industry.

Their claim that it is difficult for them to compete with Swiss watches does not

quite coincide with their statement on page 780 (McCulloch brief), where they admit that the industry of Geneva, Chaux-de-Fonds, and Locle, which was once very prosperous, has suffered severely in late years from the competition of machine-made watches of the United States.

They further state that the payment of a great deal of duty is avoided by the importation of parts of watches being brought in "knocked down" at the 40 per cent ad valorem rate for materials. In another part they claim that 50 to 65 per cent of the materials used in their watches is imported by them. If that is the case, which we do not doubt, it proves that the greater part of the material imported is used by American factories and that not many watches are brought in in a "knocked down" condition, also that this material is not brought in on a very extensive scale to avoid payment of duties on movements.

In their brief they state that the American manufacturer pays large duties on this material. They consider a duty of 40 per cent on material very excessive and arranged to have the duty on jewels reduced in the last bill to 10 per cent, because they make no jewels. On the other hand, they do not think it excessive to ask a duty on foreign watches, which contain these 10 per cent ad valorem jewels, of 100 to 143 per cent ad valorem, through the proposed McCulloch specific duty brief, basing nearly all their arguments for increased rates on the number of jewels.

Under the title "Capital investment and overhead expenses" the difference in the cost of material, labor, working conditions, and working hours is not as great as they would like it to appear. We admit the plant investment and the working capital is far greater in the American factory than in the foreign, but for this a couple of American manufactures have only themselves to blame, because these two leading factories have followed out in the past a policy of, one might say, unwarranted building expansion, creating a producing capacity far beyond the demand for their watches.

The paragraph "Swiss watch industry prospers, American watch industry depressed," is partially true, but has to be analyzed. The Swiss industry has had its depression in the years 1908-1910, while the American industry has had its depression confined principally to two of the large factories. On the other hand, several other large factories have been declaring 20 per cent to 30 per cent dividends every year, with, as we are informed, a good melon to slice of 100 per cent just prior to the sale of one of these companies about two years ago. The depressed condition of two of the companies is not due to the competition from Swiss watches, but to their capacity being larger than the demand ever warranted. We understand that they were very prosperous the past year—further proof, the old tariff good enough.

Because of efficient management and the manufacturing of goods wanted by the people, one company has been exceedingly prosperous from its inception, covering the past 12 years.

There are several others. In fact, all the medium-sized concerns have had all they could do and have been very prosperous, paying good dividends. The same can be said for the large factories of cheap watches, such as the Ingersoll, with which watch the Swiss can not compete.

As stated in the beginning, we regret that we feel compelled to mention these facts, but think, and in fact know, that the interests of the American public would be best served through a 20 per cent ad valorem duty and that the Government will derive thereby a good revenue and protect the American industries—such as are properly managed and not overcapitalized.

This ad valorem duty will fully equalize the difference in the cost of production of watch movements in the United States and in foreign countries.

Respectfully submitted,

GRUEN WATCH MANUFACTURING CO.,
By FRED G. GRUEN, *President*.

BRIEF OF ITALIAN CHAMBER OF COMMERCE REGARDING SCHEDULE D.

The Italian Chamber of Commerce in New York respectfully submits to this honorable committee the following recommendations and arguments for the revision of the duties on the articles hereafter stated, hoping that the recommendations made will receive favorable consideration.

Briar root or wood.—This article, which was on the free list prior to 1909, was made dutiable under paragraph 202 of the present tariff at 15 per cent ad valorem.

Briar wood is a raw material, necessary in the manufacture of smokers' articles (pipes), in fact, to quote an important manufacturer of New York, "the only wood in existence which is practical for a useful pipe, and nothing has been found in this country which could be applied as a substitute."

This material, which is not, as erroneously stated by some interested competitor, the laurel or spoonwood (*Kalmia latifolia*) of the United States, is not produced in this country, and is wholly imported either from France, French North Africa, or Italy. It is the root of the "*Erica arborea*" of Southern Europe, found on lands too poor and unsuitable for cultivation, covered with shrubs and all kinds of coarse growth.

The rooting out and sawing into crude blocks of this wood, in which shape it is sold to those who collect it for shipment, is what would be called in this country, a poor man's business, as it is very tedious and hard work, affording, however, the means of livelihood to a deserving class of poor but industrious people, who prefer this kind of work to falling upon the charity of the community.

Those who go out among the briary thickets to make a living by their labor deserve more sympathy than is extended to them by taxing of the product of their labor with a 15 per cent duty as the present tariff does, which, by the inevitable reaction of the duty in the price paid to the gatherers of this article, make their lot harder.

The poet may sing:

"Oh beautiful those wastes of heath
Stretching for miles to lure the bee,"

but the "human bee" who is lured there by the imperious stimulus of an empty stomach and a numerous family to provide for, is apt to take a less poetical view of his lot, when, after a day of hard work and torn hands and clothes, he finds the measure of his already scant reward reduced of a further tithe, as a consequence of the duty placed on this merchandise.

His appeal, substantiated by humanitarian reasons, for the return of this article to the free list, will, this chamber hopes, receive the consideration of this honorable committee, all the more as the exemption from duty of this article will not injure any American production, which does not exist, nor the revenue, which did not derive from it, in the fiscal year 1911, more than \$46,646.

Boxes containing oranges and lemons.—Paragraph 211 of the present tariff subjects to a duty of 30 per cent the wood of boxes containing lemons, oranges, and other citrus fruit, if the wood of which said boxes are made is of foreign growth and manufacture, and to a duty of 15 per cent the wood of such boxes, when the growth and manufacture of the United States, exported as orange and lemon box shooks, upon satisfactory proof of its identity to the Secretary of the Treasury.

The present duty on lemons of 1½ cents per pound, equal to about 68 per cent ad valorem, upon an article which is a necessity, and which most countries admit free of duty, is already exorbitant. The United States subjects lemons to a duty that, by reason of the insufficient domestic production, deprives the consumer in the West and Middle West of the benefit of competition, decreases importation and therefore revenue, and maintains a privileged protection, securing large dividends to a limited number of producers of a small section of southern California at the expense of the consumers of the whole country, who are thus compelled to pay a high price for a commodity which is indispensable. As if this were not sufficient, an additional duty on the container, which is necessary to convey the merchandise to market, and has absolutely no commercial value, is a burden so unfair that it is difficult to understand how it ever came to be enacted, save as one of the many evidences of the artful way in which fiscal legislation for privileged classes, irrespective of reasonable protection to domestic industry, was placed upon the statutes.

Lemons, as well as any other commodity, have to be conveyed to market in some sort of container. In this case the container is a wooden box that, when empty, has absolutely no commercial value and no other use even as firewood. No one would ever think of charging duty on burlap bags used, for instance, in shipping potatoes or similar merchandise. Yet comparison is in this case identical, and even to the advantage of lemon boxes, because the burlap bag, provided, as it seldom happens, it were in good condition, could be utilized for further use, which is not the case with the lemon box that is practically destroyed by the opening and repeated handling.

A duty on the containers when the contents are already dutiable at a high rate is also to be excepted as an unjust discrimination against the commodity, the more so in comparison with other dutiable merchandise, which is not charged for containers even when the container might represent a value. The dilemma appears inevitable, out of consistency, either to charge duty on containers of all kinds of merchandise or exempt them in all cases. It is evident that the containers of merchandise already subject to duty should be exempted from duty, when such containers are indispensable to the conservation and to the presentation of the merchandise in a marketable condition, provided that the containers are not by themselves an article possessing an unusually high or well-established value, in which case only a duty on containers might be justified if necessary for revenue purposes.

It is the opinion of this chamber, for the above-stated considerations, that the duty on the wood of the boxes containing lemons should be abolished whether the wood of which the boxes are made is the product or not of the United States. But the recommendation for exemption of duty is all the more apparent in the case of boxes made from shooks, the growth and manufacture of the United States, when returned to this country filled with fruit, because to maintain as at present a duty of 15 per cent on such wood is placing a tax on and discriminating against the use of a United States product.

In fact, notwithstanding the differential treatment between boxes manufactured from American wood and boxes manufactured from foreign wood the importations of the former in fiscal year 1911 only amounted to a value of \$35,408, against \$275,138 for the latter. This proves that the difference of 15 per cent in the duty between American and foreign shooks is not sufficient to encourage the shipper to use American shooks, this requiring the keeping of two classes of wood for an insignificant compensation.

This chamber, therefore, respectfully recommends that the present duty of 15 per cent on American shooks for the manufacture of boxes imported filled with lemons be repealed, and that if for reasons of revenue it is not possible to abolish the duty on lemon and orange containers made of foreign wood the rate at least be reduced from 30 to 15 per cent.

SUPPLEMENTAL BRIEF ON SPICES SUBMITTED BY W. J. GIBSON.

JANUARY 29, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means,

House of Representatives, Washington, D. C.

DEAR SIR: I wish to add the following to the brief submitted to your committee by the undersigned "on spices, unground," on January 7, 1913, and printed in your hearings No. 2, on pages 279-281, in reply to some statements made to your committee by those advocating that spices be left as they are in the present act and as they have been ever since the tariff act of 1883, i. e., "the ground spices" dutiable at 3 cents a pound and "the whole or unground spices" free.

Of course the spice grinders and the manufacturers of oils, perfumeries, and fancy soaps in which spices are used want this condition to remain. Why do they want a duty of 3 cents a pound on the ground spices and no duty on the whole or unground? They want to collect a duty of 3 cents a pound and put it in their pockets instead of any revenue going to the Government from spices.

It is surprising to see how tenaciously "the interests" contend for keeping the tariff on spices as it is. They say that the spices—cassia, cinnamon, cloves, nutmegs, allspice, or pimento—are not luxuries. How absurd such a statement. They have always been known as luxuries in trade and commerce. Our tariff acts have always treated them as luxuries and have often grouped them with tobacco and wines. For instance, in the tariff act of August 10, 1790, section 1, * * * "Pepper, per pound, six cents; pimento, per pound, four cents; manufactured tobacco, per pound, six cents; snuff, per pound, ten cents;" and also in the Democratic low-tariff act of 1846 spices were put in the same schedule, B, and at the same rate of duty as "segars, snuff, and all other manufactures of tobacco; wines, burgundy, champagne, claret, madeira, port, sherry, and all other wines and imitations of wines."

The Standard Dictionary defines luxuries as follows: "That which gratifies a nice or fastidious appetite; specifically, any article that ministers to comfort or pleasure and yet is not necessary to life." Do not spices come within this category? If we are to have a duty for revenue it ought to first and foremost be put on luxuries and not on the necessities of life, and to be put on luxuries in the form in which they are imported. For revenue purposes you might as well put a duty on "jack-o'-lanterns" as on ground spices and leave unground or whole spices on the free list.

Some of the witnesses had great fear if a duty was put on unground spices it would have the effect of adulterated ground spices coming in from abroad. This is another unreasonable fear. If unground spices are made dutiable, a commensurate or corresponding duty will be put on ground spices, of course. Ground spices never have been imported and it is not likely they ever will. The

quotation from Dr. Doolittle on page 2428 substantially shows that the adulteration in spices and the grinding of worm-eaten, moldy, immature spices have been done by these domestic converters of spices; for, as he says, "They are brought into this country in the whole state."

They want protection, particularly on the ground spices, for two reasons, says their spokesman (p. 2437):

"First, because 50 to 60 per cent of the selling price is labor. Now, it is the question of labor that makes the price of spices higher than the material itself."

If this statement is true, these people ought to look into the cost of their manufacture. It is a saying among manufacturers that if the labor cost is more than 15 or 18 per cent of the cost of the material it is too much and there is something wrong that needs looking into.

The second point, for wanting a duty on ground spices, is still more ill-judged than the other; for, said the same spokesman, "We also make the point, Mr. Chairman, that the use of spices is more important to the poorer classes than it is to the better to do. In other words, they have to do with poorer food, perhaps, and the poorer food is made palatable by spices." This is a poor argument that the poor should use spices to make spoiled or partly decayed food palatable, so they can eat it. The poor need palatable food, and if they have that, their natural appetite is the best spice, and all they want.

The duty on whole spices will not perceptibly, if at all, increase the cost of living. They have not gone up in price with other things, except on one or two articles, and that has been occasioned by an unusually short crop in the particular countries in which they are grown, and this is always the case. They are not used by the great masses of the people, and their use can be dispensed with by those who can afford them without injury to their health, but the masses of the people must have food, clothing, and shelter.

About 10 per cent of the cloves, cinnamon, and allspice, or pimento, are used in the whole or unground state in the barrooms and saloons of this country.

Some 50 per cent of the cloves is used for making oil of cloves, and the oil of cloves has been coming in free, and so has the oil of cassia, cinnamon, and mace, and many oils that are luxuries and that are used for making purely luxurious articles.

Probably not more than 40 per cent of these spices, except pepper, is ground. The last Republican House understood that whole or unground spices was a good subject to produce revenue, for they put a duty of 30 per cent on all these spices. The former chairman of the Ways and Means Committee, who was instrumental in having these whole spices put on the dutiable list in the House tariff bill in 1909, said (p. 277 of these hearings): "I want to say to you (the writer) that we put this duty on because we were looking around for revenue. * * * And we struck spices, and put them on. The bill went to the Senate with that provision in. Afterwards we incorporated a corporation tax * * * which has brought in a revenue of \$27,000,000 per annum or more, and we found we did not need this duty on spices."

If your committee desires, you can raise a revenue of \$5,000,000 to \$6,000,000 per annum from these spices, and it will go directly into the Treasury for the support of the Government, and its payment will not be felt, and it will not increase the cost of living to the masses of the people.

These spices can not be grown here; they can not even be hotheaded; they are luxuries, and all luxuries should be taxed, the same as tobacco and wines, the same as they were in the days of our fathers.

Respectfully submitted.

W. J. GIBSON.

BRIEF OF TROEGER & BUCKING, NEW YORK, N. Y., RE DECALCOMANIAS.

COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

We respectfully submit this brief for your consideration regarding a material reduction of the tariff on decalcomanias.

The tendency of certain testimony before the committee has been to closely connect decalcomanias with other lithographed material. Whether this was intentional or otherwise, we consider it important to preface our remarks with the statement that decalcomanias and ordinary lithographs are entirely different articles. This refers particularly to their ultimate use.

Decalcomanias are used to a very large extent on such household necessities as sewing machines, chinaware, and furniture.

Paragraph 412 of Schedule M on the tariff law now in force subjects decalcomanias to four different rates and classifies them as follows: Decalcomanias in ceramic colors, weighing not over 100 pounds per 1,000 sheets, on the basis of 20 by 30 inches in dimensions. Weighing over 100 pounds per 1,000 sheets, on the basis of 20 by 30 inches. If backed with metal leaf. All other decalcomanias, excepting toy decalcomanias.

Decalcomanias for pottery, called ceramic decalcomanias, were dutiable under paragraph 400 of the Dingley Act at 20 cents a pound. Under the Payne tariff law we pay 70 cents per pound plus 15 per cent ad valorem if the decalcomanias are on thin or duplex paper. If on heavy paper, the rate is 22 cents per pound plus 15 per cent ad valorem.

As four-fifths of the product of our American potteries must be decorated to make it salable (see brief of Mr. W. E. Wells, p. 657, hearings on earthenware, earthenware, and glassware), it is plain that the potters must have a large range of artistic decalcomania patterns to select from. This is not possible under the present prohibitive rate.

Since the Payne tariff bill went into effect we have discontinued importing ceramic decalcomanias on account of the high duty.

Cold decalcomanias are those used on sewing machines, farm implements, glass, furniture, etc. The Dingley rate of 20 cents per pound also applied to cold decalcomanias.

More than half of the small quantity imported since 1909 was assessed at 40 cents per pound.

On the metal-backed decalcomanias, the customs officials collected 65 cents per pound. In connection with this paragraph there has been considerable confusion and misunderstanding, and the United States Court of Customs Appeals recently decided that the rate should be 40 cents per pound.

Even on this basis, the metal-backed decalcomanias, being heavier, bring about 20 per cent more duty than the other cold decalcomanias.

During the year ended June 30, 1912, the total cold decalcomania imports amounted to only \$65,573, and the average for the two preceding years was still lower.

The domestic manufacturers practically have a monopoly in this line. We, of course, are at a great disadvantage in not being able to state the amount of their combined output. The writer of this brief makes regular trips from coast to coast and is, therefore, in a position to roughly estimate the value of the cold decalcomanias sold in this country. It is safe to assert that the importation does not exceed 6 per cent of the home consumption.

We therefore add our plea for a reduction. We do not ask that decalcomanias be placed on the free list. We do not even ask for a downward revision of the Dingley bill. But, as the domestic interests thrived under the Dingley law and could do so to-day with the same protection, we ask that the old rate of 20 cents per pound be restored.

To substitute this competitive for the present prohibitive rate, and at the same time preclude the possibility of any misinterpretation, we would suggest that the paragraph read simply:

All decalcomanias, except toy decalcomanias, 20 cents per pound.

Respectfully submitted.

TROEGER & BUCKING,
By EMMET O'BRIEN,
171 Sixth Avenue, New York.

YARN COUNT AS A BASIS FOR THE COTTON-CLOTH TARIFF.

[From Textile World Record, March, 1913.]

In the general clamor over the revision of all the textile schedules, the cotton trade has failed to take account of a radical change which the Underwood bills of 1911 and 1912 proposed to make in the method of classifying cotton cloths for tariff purposes. Under the new method cotton cloths are classified according to the size of the yarn in the fabric. The Payne law provides specific and ad valorem rates varying according to classifications that are based on the number of threads per square inch, the number of square yards per pound, and the value per square yard. The Underwood bill, on the other hand, provides for ad valorem rates which vary according to classifications based on the size of the yarn in the respective fabrics. Paragraph 3 of the Underwood cotton bill of 1911, which illustrates the new system, is as follows:

Cotton cloth in the gray.

Yarn count:	Ad valorem rate.
Under No. 50.....	per cent.. 15
No. 50 to 100.....	do.... 20
Over 100.....	do.... 25

This system of cloth classification based on the yarn count was incorporated not only in the Underwood cotton bills of 1911 and 1912, but also in the so-called Parker-Langshaw cotton schedule, recommended to the Ways and Means Committee on January 22, 1913, by the American Cotton Manufacturers' Association, and which was printed in our February issue.

CHAIRMAN UNDERWOOD'S EXPLANATION.

When explaining his cotton bill in the House of Representatives on July 28, 1911, Chairman Underwood was questioned regarding the new method of classifying cloths, and during the debate, from which the following extract is taken, a letter was read from the Bureau of Standards, which had been written in reply to a series of questions regarding the size of the yarn as a basis for the tariff classification of cotton cloths:

"MR. UNDERWOOD. In the Payne bill the classification is the most complicated in the entire tariff system. It is divided into a classification according to count of threads, first, for goods having not exceeding 50 threads to the square inch, then for goods having between 50 and 100 threads to the square inch, and so on, between 100 and 150, between 150 and 200, from 200 to 300, and, finally, for cloth exceeding 300 threads to the square inch—6 classifications. Then each of these classes is subdivided into three—for unbleached goods, bleached goods, and goods that are dyed, colored, stained, painted, or printed. Then there are further subclassifications according to weight and value, and on top of that there is a special provision for mercerization; so that the ordinary citizen can not read the bill and determine how much the taxes are, because they change so much, and because it is all an effort to make a practicable set of specific rates.

"We change the classification entirely to an ad valorem rate, and that ad valorem rate rises and falls with the value of the goods. We found that what would be a revenue rate on high-class goods would be a prohibitive rate on certain classes of heavy, coarse goods. When we found that one general, uniform rate on cotton goods would not accomplish what we desired—revenue rates all the way through the schedule—we determined on a classification of our own. The number of cotton yarn in cotton goods is a fact uniformly known to the trade for 100 years or more. No. 1 cotton yarn is 840 yards in length to the pound. As you increase the number of the yarn, multiply the increased number by 840, which results in the number of yards per pound. For instance, in a pound of No. 400 yarn you get 336,000 yards, or 190 miles. So that is a fixed fact.

"In the examination of the imports and exports there seemed to be a dividing line along about the class that carried from 100 to 150 threads to the square inch, and as these cloths mainly used yarns below No. 100 we fixed the classification there.

"We found that there was another distinction according to the unit value of goods and the amount imported in cloths running from 150 to 200 threads to the square inch, and if we fixed our second classification in thread, not on the number to the square inch, but on cloths containing no thread in excess of 100 and above No. 50, we would fall into the second classification.

"And then if we provide that all cloth which is made of yarn above 100 shall be in the third classification, we get in that class all the highest-grade goods.

"This new classification of cloth, I will say to the gentleman, is not a difficult one. The Bureau of Standards has stated that the number of the thread can be easily ascertained by an ordinary expert. The threads run in much the same classes, and our classification is merely to determine in what class they come by the highest number of the threads found in the cloth.

"MR. MANN. I wondered what the reason was why you change from the method of counting the number of threads to the inch and fixing it on the number of the thread.

"MR. UNDERWOOD. Because after discussing the question in the committee, consulting the Bureau of Standards, and talking with men in the cotton business, we concluded that it was a much simpler classification than the other.

"MR. MANN. Was that the opinion of the Bureau of Standards?

"MR. UNDERWOOD. Yes. Their letter shows the practicability of this method.

"MR. MANN. I think that they are very high authority myself.

"Mr. UNDERWOOD. The letter of the Bureau of Standards will appear in the record:

"BUREAU OF STANDARDS,
"July 18, 1911.

"Hon. O. W. UNDERWOOD,

"Chairman Committee on Ways and Means, Washington, D. C.

"DEAR SIR: Complying with the telephone request of Mr. Roper, clerk of your committee, I am pleased to confirm herewith the information furnished him over the telephone by Mr. Douty, of this bureau, in response to questions relative to the analysis of cotton yarns and fabrics:

"1. Can a textile analyst determine the count of the yarn used in the manufacture of a cotton fabric, and if so, with what accuracy can it be determined?"

An analyst can readily determine the count of yarns used in the manufacture of any fabrics. The accuracy with which this can be done depends upon whether the count is to be given for the yarn in the finished condition or in its gray condition previous to weaving. If the count in the finished condition is desired, it can be determined accurately within one-half count for warp yarns and one count for the weft or filling yarns. If it is desired in the gray conditions previous to weaving, the possible accuracy will depend largely upon the nature of the fabrics. Fabrics having very slight amounts of loading or finishing materials upon them can be analyzed with an accuracy of one count for the warp yarns and two counts for the weft yarns. Fabrics having large amounts of loading or finishing materials which have to be extracted before they are returned to the gray condition can be analyzed with an accuracy of two counts in the warp yarns and from three to four counts in the weft yarns. The difference in the degree of accuracy attainable in the determination of the counts of the warp and weft yarns is not due to the variation in the method of observation, but to the wider variation and the lack of uniformity in the yarns used as filler or weft yarns.

The lower accuracy attainable in the determination of the counts of the yarn in its original or unwoven condition is due to the difficulty in extracting completely the loading or finishing materials without altering or injuring the nature of the fibers in the yarn. The determination must also be corrected for the "take up" of the yarn in the process of weaving. This introduces another possible source of error. In any case the accuracy attainable is much greater than that demanded by the weaver from the spinner furnishing the yarn for a given fabric. A variation of four counts either way from a specified count is usually accepted in the trade.

"2. Is the process of analysis to determine the yarn counts a difficult one, and does it require a high degree of skill?"

It is not a difficult operation and can soon be acquired by anyone having a fair knowledge of laboratory operations and sufficient experience to have acquired a fair amount of manipulative skill. To be reliable, it must be performed carefully and under uniform conditions of humidity and temperature, and the results should always be accompanied with a statement of the relative air humidity and temperature at which they were obtained.

"3. Of what does the operation consist, and what apparatus is necessary to perform it?"

The determination is usually made by cutting from the fabric by means of a die or templet a square having its sides coincident with the yarns.

On very uniform fine fabrics a square 1 inch on the side is frequently used, but this is in general considered too small to give very accurate results. The Bureau of Standards used 4 inches square, and upon coarse and uneven fabrics prefers even larger pieces.

After the test piece is cut out the warp and weft yarns are carefully unraveled from the fabric until a definite length is obtained; their combined weights are determined upon an analytical balance, capable of weighing to a tenth of a milligram and, if the count is desired in the English system, the number of hanks (1 hank equals 7 lays of 80 turns, of 1½ yards each equals 840 yards) which will weigh 1 pound is computed from these values.

In the metric system the yarn count for cotton is the number of 1,000-meter hanks required to weigh one-half kilogram, or 500 grams.

If the count for the gray yarn is desired, it is necessary to boil the fabric in a solution suitable to remove the loading and finishing material, without injuring, and proceed as above, correcting the results for the change in length due to the "take up" of the yarn in the process of weaving, which, of course, depends upon the nature of the weave.

"4. Would it be difficult to secure the services of men who would be capable of making yarn-count determinations?"

There should be no difficulty in securing reliable assistants capable, with proper instruction for a short period, to make accurate yarn-count determinations. Graduates from the Lowell Textile School or the Philadelphia Textile School should be available at moderate cost.

"5. Would it be possible to carry on the work at any of the customhouses?"

It would. The ports of New York, Boston, and Philadelphia have men qualified to make the determination. Any other ports receiving a sufficient number of importations to require the entire services of one analyst could be easily provided with properly qualified assistants. Ports of entry receiving an insufficient number of importations to require the services of an analyst continually could easily be provided for by requiring the collector to take the requisite samples and forward them to the Bureau of Standards for analysis. The Bureau of Standards is already equipped and has a trained personnel qualified to do the work.

If desired, the Bureau of Standards would undertake to develop standards and forms necessary to secure uniformity in all the customhouses, supervise the apparatus used to secure its accuracy, and make check tests in the same manner that it is now doing for sugar importations.

"6. Will you furnish a list of ordinary fabrics which are manufactured from yarns within the following ranges of yarn counts:

"(a) 1s to 50s.

"(c) 102s to 200s.

"(b) 52s to 100s."

The limits which you have indicated include so many fabrics which would fall within two classes that it is much clearer to indicate limits of the most common counts used in ordinary commercial fabrics as follows. Those, of course, are only approximations.

Ducks.....	6s to 18s
Denims, jeans, ticking.....	8s to 20s
Canton flannel, sheetings.....	8s to 24s
Coarse ginghams, drills.....	12s to 24s
Outing flannel.....	12s to 30s
Damasks.....	16s to 24s
Chambrays.....	20s to 40s
Point cloths.....	24s to 34s
Fine damasks.....	24s to 40s
Sateen linings.....	24s to 50s
Piques.....	24s to 80s
Lawns.....	30s to 70s
Fine ginghams.....	30s to 60s
Coarse organdies.....	30s to 80s
Soisette.....	32s to 80s
Voiles, madras shirtings.....	40s to 80s
Batiste.....	40s to 90s
Long cloth.....	40s to 100s
Dimity.....	40s to 120s
Linons (India).....	50s to 120s
Swiss muslin.....	60s to 140s
Marquisettes.....	50s to 150s
Organdies.....	80s to 100s

Any further assistance which we can render you will be gladly supplied.

We shall be glad to have members of the Ways and Means Committee visit our textile laboratories, where we can show the apparatus used and explain more in detail the methods of making analyses and tests.

Respectfully,

E. B. Rosa,
Acting Director.

The reply of the Bureau of Standards to the first question is calculated to carry conviction by reason of the confidence with which the statements are made, but in the very nature of the things discussed such confidence is unwarranted.

Why, for example, should there be greater injury to the fiber in removing a large amount of sizing than when removing a smaller amount? What experience enables Dr. Rosa to state that the light sizing of warp yarn admits of an accuracy of one count, while heavy sizing increases the liability of error to two counts? What tests of cotton yarn before weaving and after weaving and finishing have been made in the Bureau of Standards or elsewhere which would warrant fixing the accuracy of cloth analysis at one-half count for warp and one count for filling? By what method has the relative variation of warp and filling been determined so closely?

Dr. Rosa is so explicit regarding the accuracy with which the count of yarn in cloth can be determined, as to create the suspicion that he is wrong, and this suspicion becomes a certainty when we consider that the yarn count by which he defines the variation in yarn sizes, is not an absolute standard of weight or measure, but is the ratio between weight and measure; in other words, the cotton yarn count is the number of 840-yard lengths in a pound of yarn. That being the case a variation of one count on coarse yarn, say 6s for example, is much greater than a variation of one count on fine yarn, say 80s. A variation of one count from 6s to 5s means the important increase of one-sixth in the size of the yarn, from 5,040 yards to 4,200 yards per pound; whereas a variation of one count from 80s to 79s means the unimportant increase of one-eightieth in the size of the yarn, from 67,200 yards to 66,360 yards per pound. And yet the Bureau of Standards tells the Ways and Means Committee that the count of yarn in a fabric "can be determined accurately within one-half count for warp yarns and one count for filling yarn." Moreover, Dr. Rosa assures the committee that "a variation of four counts either way is usually accepted in the trade." A variation of four counts from 8s to 4s means doubling the size of a yarn, which would not be permissible in the manufacture of any kind of goods, while a variation of four counts from 80s to 76s would be an increase of only one-twentieth in the size of the yarn and would prove negligible in many cases.

ADVANTAGES OF THE YARN-COUNT BASIS.

The inaccuracy of Dr. Rosa's reply to question 1 does not, however, mean that the count of the yarn is not a good basis for classifying cloths for tariff purposes. Any basis will necessarily be more or less arbitrary, whether it is the set or threads per inch, the square yards to the pound, the value per yard, the yarn count, or a combination of these factors. The question is, Which is the best? In searching for the best basis the yarn count is found to possess many advantages. It provides an excellent automatic adjustment to the cost of converting cotton into yarn, and it offers far less difficulty in application than does the present compound system of set, weight and value. In applying the yarn-count system, however, it is necessary to begin with an accurate definition of the count as a basis. It is out of the question to adopt the spun count as a basis for tariff classification because there are too many variable factors arising between the spun yarn and the finished cloth. Some processes of finishing and dyeing may cause a loss of as much as 5 per cent in the weight of the spun cotton; others may cause a gain of 5 per cent. And it is impossible for anyone to determine from the finished cloth whether there has been a loss or gain or to what extent. That being the case it follows that if cloths are to be classified for tariff purposes by the size of the yarn, the basis must be the size of the yarn as it is found in the cloth without regard to loss or gain in weight during the previous processes of manufacture. The spun count is a standard for the mill, and even if it could be determined, it would provide no better basis for tariff classification than does the finished-cloth count.

THE QUESTION OF TAKE-UP.

Having necessarily decided on the finished count as a basis, without regard to the spun count, the remaining questions relate to the practicability of determining the yarn count from the finished cloth. Aside from the question of take-up there is no doubt but that the finished-yarn count can be determined with as great a degree of accuracy as can the set or square yards of cloth to the pound, both of which must be found under the Payne tariff. An exception to this statement may arise in the case of goods made of different sizes of yarn and in which the basic yarn is found in so small a quantity as to make a determination of the size difficult. The question of take-up presents a more difficult problem. If the yarn is to be measured in a stretched condition in order to allow for the take-up the possibility of error and probability of protests in administering the tariff will be greatly increased. But is it necessary to determine the count of the yarn in a stretched condition? Why would it not serve every purpose to base the tariff classifications on the count of the yarn as it lies in the cloth on the assumption that a thread extending over a yard of cloth is a yard in length? There is an old adage about the wisdom of letting sleeping dogs lie, which might be heeded to good advantage in this connection, and we offer the suggestion that if the yarn count is to form the basis for the tariff classification of cotton cloths, the take-up be disregarded and the count be accepted as the yarn lies in the cloth. If this is done then the basis can be determined with as great a degree of accuracy as can the set and weight per square yard under the present system.

FINDING THE YARN COUNT IN CLOTH.

Questions 2, 3, 4, and 5 addressed to the Bureau of Standards deal with the work involved in determining the yarn count.

The method suggested by the Bureau of Standards is clumsy and difficult.

The best method is the "straight-line" process, which we have repeatedly explained and which is based on the fact that the cotton count is the number of 840-yard lengths to the pound, or the equivalent, the number of 4.32-inch lengths to the grain.

The number of threads in an inch of cotton cloth is equal to the number of 4.32-inch lengths of yarn in a sample of the cloth measuring 4.32 square inches (1.8 inches by 2.4 inches).

It follows from these facts that the count of the yarn in a sample of cotton cloth is found by dividing the number of threads per inch by the number of grains in the weight of a sample of 4.32 square inches ($\frac{1}{3}\frac{1}{8}$ square yard). This is so simple that even the nontechnical legislator has no excuse for not knowing how to determine the yarn count for classifying cloths under the Underwood cotton bill. It is so simple that anyone with ordinary intelligence and without a diploma from a textile school can perform the operation.

Take for illustration a cloth having 96 ends of warp and filling per inch and of which a sample measuring 2.4 inches by 1.8 inches weighs 4 grains. Dividing 96 by 4 we get 24, the average count of all the yarn in the fabric. If the count of any portion of the yarn, say warp or filling, is wanted, that portion of the yarn is raveled and weighed separately and the count calculated in the same way, by dividing the number of threads of that yarn per inch by its weight in grains. This simple operation gives the finished cloth count with what amounts to scientific precision. If a larger sample is preferred, it can be made a multiple of 4.32 square inches.

If adopted as a basis for tariff rates, the yarn count thus obtained reduces to a minimum the opportunity for disputes over the accuracy of the assessment. If, however, the Underwood cotton bill becomes a law without an exact definition of this yarn-count basis, the Treasury Department and the importers may be involved in hopeless confusion and endless disputes over the take-up of yarn in weaving and the loss or gain of weight in dyeing, bleaching, mercerizing, and finishing. All this trouble can be avoided by a few lines in the law providing that the rates shall be based on the count of the yarn as found in the finished fabric from which the sizing material has been removed, the count to be determined by taking the length of the yarn to be equal to the distance covered by it on the cloth.

OBJECTIONABLE DIVIDING LINES.

Objection has been made to the Underwood and the Parker-Langshaw schedules because of the dividing lines at which the rates are changed. The Parker-Langshaw schedule provides for the following sliding scale of rates on gray goods made of ply yarn:

Yarn count.	Ad valorem rate.
1 to 9.....	per cent. 15
10 to 19.....	do. 17½
20 to 39.....	do. 25
40 to 59.....	do. 30
60 to 99.....	do. 35
100 and over.....	do. 40

If the yarn count as found by analysis falls near the dividing line, a slight change in the size may mean an important change in the duty. For example, if the yarn count is found to be No. 59½ in a cloth valued at 10 cents a yard, an increase of one-half count would mean an increase of 16½ per cent in the duty from 3 cents to 3½ cents a yard. This is not only unjustifiable from an economic standpoint, but increases the temptation to fraudulent collusion between importers and customs officers. These objections, however, are easily overcome by eliminating the dividing lines from the schedule and making the rates increase with the increase in the yarn count. The framers of the Parker-Langshaw schedule began with 15 per cent ad valorem on cloths made of No. 1 yarn and, by jumping the rates at five dividing lines, finally reached a rate of 40 per cent on cloths made of yarn finer than No. 99. That is, the rate was increased 25 per cent in five installments as the yarn count increased from No. 1 to 100. Our suggestion is that the increase in the rate of duty be made to keep step progressively and proportionately with the increase in the yarn count. In the case cited this would mean an increase of ½ per cent for every increase of one number in the count of the yarn. The objectionable dividing lines would be eliminated and the rate would adjust itself to the count, whatever the latter might be. Our

suggestion will be made clearer by the following comparison of our method with that adopted for the Parker-Langshaw schedule, the rates being used only to illustrate the method of progression and not as an indorsement of their adequacy or inadequacy for protection or revenue:

The rates by our progressive method are in some cases higher, in other cases lower, than by the Parker-Langshaw jumping process, but the superiority of our adjustment is so clear that any further attempt to explain its advantages is superfluous.

SUGGESTIONS.

This examination of the subject shows beyond question the wisdom of our recommendations regarding the new cotton schedule, which are:

1. Base the classifications on the yarn count as found in the finished cloth without allowance for take-up or for changes in preceding processes of manufacture.
2. Make any progressive increase in the rates in proportion to the increase in the yarn count, eliminating dividing lines.
3. Fix the tariff rates so that any existing inequalities and burdens may be removed, and no domestic industry may be injured.

Cloth in the gray made of ply yarn.

Yarn count.	Our method.	Parker-Langshaw method.	Yarn count.	Our method.	Parker-Langshaw method.	Yarn count.	Our method.	Parker-Langshaw method.
	<i>Per cent.</i>	<i>Per cent.</i>		<i>Per cent.</i>	<i>Per cent.</i>		<i>Per cent.</i>	<i>Per cent.</i>
1	15	15	35	23½	25	69	32	35
2	15½	15	36	23½	25	70	32½	34
3	15½	15	37	24	25	71	32½	35
4	15½	15	38	24½	25	72	32½	35
5	16	15	39	24½	25	73	33	35
6	16½	15	40	24½	30	74	33½	35
7	16½	15	41	25	30	75	33½	35
8	16½	15	42	25½	30	76	33½	35
9	17	15	43	25½	30	77	34	35
10	17½	17½	44	25½	30	78	34½	35
11	17½	17½	45	26	30	79	34½	35
12	17½	17½	46	26½	30	80	34½	35
13	18	17½	47	26½	30	81	35	35
14	18½	17½	48	26½	30	82	35½	35
15	18½	17½	49	27	30	83	35½	35
16	18½	17½	50	27½	30	84	35½	35
17	19	17½	51	27½	30	85	36	35
18	19½	17½	52	27½	30	86	36½	35
19	19½	17½	53	28	30	87	36½	35
20	19½	25	54	28½	30	88	36½	35
21	20	25	55	28½	30	89	37	35
22	20½	25	56	28½	30	90	37½	35
23	20½	25	57	29	30	91	37½	35
24	20½	25	58	29½	30	92	37½	35
25	21	25	59	29½	30	93	38	35
26	21½	25	60	29½	35	94	38½	35
27	21½	25	61	30	35	95	38½	35
28	21½	25	62	30½	35	96	38½	35
29	22	25	63	30½	35	97	39	35
30	22½	25	64	30½	35	98	39½	35
31	22½	25	65	31	35	99	39½	35
32	22½	25	66	31½	35	100	39½	40
33	23	25	67	31½	35	101	40	40
34	23½	25	68	31½	35			

STATEMENT CONCERNING SEA-ISLAND COTTON.

WASHINGTON, February 1, 1913.

Hon. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee,
House of Representatives, United States.

MY DEAR MR. UNDERWOOD: I am handing you with this a letter from W. N. Conoley, secretary of the Chamber of Commerce of the city of Live Oak, Fla., which is self-explanatory.

I desire to say in addition that seven counties in my district are engaged in raising sea-island cotton as their principal product. As you doubtless know, our lands are thin and it requires considerable fertilization to produce a good quality and a paying quantity of sea-island cotton.

Our principal competitor in the American market at the present time is the grower of Egyptian cotton in the Valley of the Nile. While the Egyptian cotton growers pay their laborers a fraction over 13 cents a day, the Florida cotton grower can not procure the commonest kind of field labor for less than \$1 a day and board. While the Egyptian is not of such long staple and is not so fine in texture as is the Florida, Georgia, and South Carolina sea-island cotton, at the same time it can be used as a substitute very effectively.

We also come in competition with cotton grown in Peru and the West Indies, and a duty of 4 or 5 cents per pound on Egyptian and other long-staple cotton would produce a revenue to this Government of some \$5,000,000 or \$6,000,000 annually.

The people of Florida believe that this cotton ought to be placed upon the dutiable list for several reasons.

First. It is a cotton out of which the finer and more expensive fabrics are manufactured, such as thread, lace, mercerized silks, and the webbing for automobile tires.

Second. The duty we are asking is distinctively a revenue duty and would be in perfect keeping with the Democratic policy on the tariff.

Third. We now pay heavy tariff duties on everything which enters into the production of sea-island cotton, which aids in marketing the crop, and also heavy duties upon everything manufactured from this cotton.

We are not asking for any special privilege in order to protect our particular production; we are simply asking that we be treated fairly and not be discriminated against.

I sincerely trust that your committee may see its way clear to either removing the duties from everything which the sea-island cotton grower is forced to use in the production of the cotton and in marketing it, and the duties upon everything manufactured from this cotton, or that you place Egyptian and other long-staple cottons upon the dutiable list at such a rate as will produce revenue, and at the same time put us upon a plane of equality with the other sections of the country.

If your committee desires I will be very glad to appear before it and submit such data and arguments as I may be able in support of the contention herein made.

Yours, respectfully,

FRANK CLARK.

THE CHAMBER OF COMMERCE,
Live Oak, Fla., January 29, 1913.

Hon. FRANK CLARK,
House of Representatives, Washington, D. C.

DEAR SIR: You will receive a marked copy of the Cotton Record which contains an editorial entitled "Only a square deal." Please read this carefully.

We are confronted in this county with a very perplexing and annoying problem with reference to sea-island cotton.

At present there is about \$100,000 tied up in sea-island cotton in this county. Although the production is at least 60 per cent less than last year, the price is not near so good, and there is simply no market for it at all.

Our farmers are seriously discussing abandoning sea-island cotton altogether and planting short cotton instead.

This is, as you know, the very heart of the sea-island belt, and it will mean quite a revolution to give up planting sea-island cotton. However, if we can not get relief in some way, it looks as if our people will be forced to give up what has long been the chiefest factor in our commerce.

If you can do anything to help the situation, it will bring relief and rejoicing to every farmer who plants sea-island cotton. Should you think a representative or delegation to present the case of the sea-island-cotton growers would be able to accomplish anything in Washington, so advise me, and I will see what can be done in this direction.

Yours, truly,

W. N. CONOLEY, *Secretary.*

BRIEF ON PARAGRAPHS 212, 466, 543, AND 713.

HEYWOOD BROS. & WAKEFIELD CO.,
Wakefield, Mass., January 8, 1913.

Mr. DANIEL C. ROPER,
*Clerk Committee on Ways and Means,
House of Representatives, Washington, D. C.*

DEAR SIR: We beg to acknowledge receipt of your esteemed favors of the 13th and 29th ultimos, the latter inclosing copy of your letter to the Hon. Wm. H. Wilder.

We thank you for your promptness in responding to our communications, though, because of our delinquency in acknowledgment, we feel some embarrassment, it being due, however, in some measure, to reasons beyond our control. We now wish to state that we accept your arrangement for our hearing of 30 minutes on the 31st instant and will probably be represented in Washington on that date by Mr. Fred M. Cleaveland, who is entirely familiar with the subjects in which we are interested.

You have asked us to advise you what our attitude is to the present tariff, and, generally speaking, we may say that it seems fair to most interests. We are believers in the protective system to a reasonable extent and, so far as our own industry is concerned, will be satisfied to have such protection as is represented by the difference in the cost of labor here and in other countries. We will take up here the schedules and paragraphs in which we are interested:

First. Schedule D, paragraph 212: "Chair cane or reeds wrought or manufactured from rattan or reeds, ten per centum ad valorem."

This small duty gives our competitors abroad, principally in Germany, an unfair advantage, because of the much cheaper cost of labor, and it also enables them to place an unfair valuation on a large product manufactured from rattan, which is being shipped into this country in ever-increasing quantities. The duty should in fact be made specific, but, as we may perhaps assume no change is likely to be made from ad valorem, we suggest that a duty of 20 per cent would fairly represent the difference in cost of labor if the goods were properly invoiced.

Second. Schedule N, paragraph 466: "Matting made of cocoa fiber or rattan, six cents per square yard. Mats made of cocoa fiber or rattan, four cents per square foot."

There may be those who will advocate raising this duty; but although we are considerable importers of matting and mats, as comprehended by this paragraph, which come mostly from the Far East, we are satisfied to let this paragraph stand as it is.

Third. Free list, paragraph 543: "Coir and coir yarn."

We are extensive importers of this material, which we import from Ceylon and India and in the manufacture of which we employ a large force at this place. There is nothing of the kind produced on this continent, and there appears to be no reason to us why it should not remain on the free list.

Fourth. Free list, paragraph 713:

Reeds, unmanufactured, should be stricken from this paragraph entirely, as they are covered by a duty imposed under the first schedule and paragraph above referred to. Reeds are manufactured from rattan, and should pay a duty. We wish rattan itself to remain on the free list, as it is not produced on this continent and comes principally from the British and Dutch East Indies.

Thanking you for your consideration, we remain, yours, very truly,

HEYWOOD BROS. & WAKEFIELD Co.
C. H. LANG, Jr., President.

BRIEF SUBMITTED BY THE MINISTER OF NORWAY.

LEGATION OF NORWAY,
Washington, D. C., January 25, 1913.

List showing a number of articles for which a reduction of the duty might be found well founded.

Article.	Schedule and paragraph.	Actual duty.
Oxalic acid.....	A, 1	2 cents per pound.
Ammoniac nitrate.....	A, 3	25 per cent as chemical compound.
Oxalate of potash.....	A, 3	Do.
Bioxalate of potash.....	A, 3	Do.
Carbide of calcium.....	A, 3	Do.
Oil of herring and whale.....	A, 40	8 cents per gallon.
Nitrite of soda.....	A, 73	2 cents per pound.
Stone (granite), hewn, dressed, or polished.....	B, 114	50 per cent.
Stone, not hewn, dressed, or polished.....	B, 114	10 cents per cubic foot.
Fishhooks.....	C, 165	45 per cent.
Aluminum.....	C, 172	6 to 11 cents per pound.
Ferrosilicon.....	C, 184	\$5 per ton to 20 per cent ad valorem.
Nickel, in pigs or plates.....	C, 185	6 cents per pound.
Gold and silver, manufactured.....	C, 199	45 per cent.
Harpoons, for whale hunting.....	C, 199	Do.

List showing a number of articles for which a reduction of the duty might be found well founded—Continued.

Article.	Schedule and paragraph.	Actual duty.
Guns, for whale hunting.....	C, 199	Probable 45 per cent (see also pars. 156 and 157.)
Planks and boards of softwood, sawed and planed.....	D, 201	50 cents per 1,000 feet and additional 50 cents to 150 cents per 1,000 feet.
Articles of wood, carved (boxes and cabinets, etc.)...	D, 215	35 per cent.
Wood-flour.....	D, 215	Do.
Skis (wooden snow-runners).....	D, 215	Do.
Cheese.....	G, 246	6 cents per pound.
Condensed milk.....	G, 248	2 cents per pound.
Fish, in oil, in tins.....	G, 270	1½ to 10 cents per tin, according to size.
All other fish, in tins.....	G, 270	30 per cent.
Herring, in tomato sauce, in tins.....	G, 270	30 per cent as fish in tins.
Herring, pickled, salted, smoked, or kippered.....	G, 272	½ cent per pound.
Fish, fresh, smoked, dried, salted, etc.....	G, 273	½ cent per pound.
Mackerel, salted.....	G, 273	1 cent per pound.
Berries, prepared in any manner.....	G, 274	2 cents per pound.
Chocolate.....	G, 292	2½ cents per pound to 50 per cent ad valorem.
Brandy and punch.....	H, 300 to H, 303	\$2.60 per proof gallon.
Fruit juice.....	H, 310	70 cents per gallon.
Oiled cotton clothing.....	H, 324	50 per cent.
Beltng for machinery (driving belts).....	I, 330	30 per cent.
Ropes, of hemp or manila, for whale hunting.....	I, 339	Probably as cables or cordage, hemp 2 cents pound, manila ½ cent pound.
Fishing nets.....	I, 342	Duty of the thread and additional 20 per cent.
Window curtains (Nottingham lace curtains).....	I, 351	50 per cent and upward.
Wood pulp:		
Mechanical.....	M, 406	Free.
Chemical.....	M, 406	½ cent pound unbleached; ½ cent pound bleached.
Printing paper.....	M, 409	¾ cent pound to 15 per cent ad valorem.
Wall paper.....	M, 415	35 per cent.
Wrapping paper and paper not specially provided for.....	M, 415	Do.
Emery, grains.....	N, 432	1 cent per pound.
Emery cloths.....	N, 432	25 per cent.
Ammunition for whale hunting.....	N, 435 to N, 437	
Matches.....	N, 436	6 cents per gross.

Nitrate of calcium.—In the bill voted by last Congress concerning the revision of the chemical schedule this product was placed on the free list as a compound of calcium. This product being a fertilizer of equal value as nitrate of sodium, it is supposed that these two products will continue to be on the free list.

For the minister of Norway.

W. M. JOHANNESSEN,
Secretary of Legation.

LEGATION OF NORWAY,
Washington, D. C., February 14, 1913.

MEMORANDUM.

Referring to the legation's memorandum of January 25 last, concerning some items in the customs tariff act, the legation begs to draw the attention to the fact that the American mackerel fisheries no longer are of the same importance as they were when the duty on mackerel was fixed. While in earlier years the mackerel fisheries in the United States were very important, now only a few thousand barrels are yearly salted. The reasons for protecting the American fisheries against the foreign competition in salted mackerel, which is used as ordinary food by common people, therefore do not seem to exist any longer.

The minister of Norway should appreciate very much if a copy of this memorandum could, through the kind intervention of the State Department, be transmitted to the Committee on Ways and Means.

STATEMENT OF PUSTAU & CO., REGARDING SEVERAL TARIFF SCHEDULES.

NEW YORK, *January 25, 1913.*

HONORABLE COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

DEAR SIR: While it is not likely that sugar will be put on the free list, will you permit me to point out to you that even if a reduction in the present duties on sugar should be contemplated, such a lower duty will be immediately reflected by higher prices of foreign sugars, particularly beet sugar, and that whatever the reduction may amount to, will be equalized immediately by a higher cost of importation here. At the same time, the beet-sugar industry in this country which, if left alone, will gradually work to constantly increasing figures, would be seriously jeopardized. Last years' production amounted to about 600,000 tons, against an importation of sugars of 2,200,000 tons. A duty on sugar is the best revenue that any country can have, as it is easily collectible, and the whole population of a country contributes toward it.

For the same reason I have always advocated a duty on coffees, teas, and particularly spices. An ounce of pepper, when ground up, retails for 5 cents per ounce. The wholesale price of Singapore pepper unground, to-day is under 11 cents per pound. White Singapore pepper is worth about 18 cents. A duty of 5 cents on spices (and double this rate for ground spices), including cinnamon, ginger, cassia, nutmegs, mace, etc., is easily collectible, and while the total amounts to quite large quantities per annum, the average consumption per capita is probably less than 1 pound per annum.

In a similar way a duty on tapioca, not the flour which is used for manufacturing, but the tapioca pearl and flake, of from 1 to 2 cents per pound would be worth collecting. It is retailed for about 10 cents per pound or even more, and the average cost is seldom over 5 cents. People who eat tapioca puddings will hardly feel such duty. The total aggregate of importations in the United States is in the neighborhood of 4,000 tons per annum.

Referring to the so-often expressed intention to reduce the cost of living, or reduction on food imports, in relation to this I believe that it would recommend itself to allow egg albumen and egg yolk in powder form, to be put on the free list. The Chinese are exporting to Europe tremendous quantities of both of these articles, costing in the neighborhood of 40 cents per pound. With the scarcity of eggs, particularly at certain seasons of the year, these two products are of great help to the candy manufacturers, and should therefore be put on the free list. Albumen is also used largely for technical purposes.

I, however, would recommend a reduction in the duty, or in fact, would advocate the putting on the free list of all hats made of fiber, other than hemp, costing less than 50 cents per dozen first cost in producing countries, not of hats that are sewed together, but are woven by hand. A great many of these hats come now from Java, and our farmers use them largely, paying 25 cents per piece. They can probably be sold for 15 cents per piece if the duty, which is now 35 per cent, were taken off. Finer quality fiber hats, exceeding the cost of 50 per dozen, should pay the same duty as they pay now, as they are made up here into more expensive hats.

Fiber hats also come from China; grass hats, and hats made of chip (wood), and those costing 50 cents or less per dozen first cost should also come in here free of duty.

A careful examination of Japanese curios will probably lead your committee to come to the conclusion that it hardly pays to collect duty on these. We would advocate that fans costing less than 5 cents per piece first cost should all be admitted here free of duty. They make an article which is sold here by the 5 and 10 cent stores, and the samples which we have and can submit to you will readily convince you that it would be almost impossible to make any such goods here, anywhere near the price that they can be bought for in Japan, and the duty of 50 per cent would not be a protection for the manufacturer, while it is a burden for the poorer classes who need fans in hot weather just as much as other people.

It would carry matters too far for me to go into further details and particulars regarding these different matters in writing, but if you feel interested the writer willingly will go over the entire list and give you an extract of what his experience would suggest you to do.

I recommend a duty on human hair, whether raw or clean and drawn, but not manufactured, of 25 or 30 per cent ad valorem, and 50 per cent on all hair which has been manufactured. Hair of this kind is nothing but an article of luxury, and Chinese and Japanese hair of the cheaper kind can well stand a duty of 25 or 30 per cent ad valorem. The cost of importation is from 70 cents to \$1 per pound, according to quality, while Italian hair is selling from \$3 to \$10 and \$20 per pound, and is often

sold when it is manufactured here at that price per ounce. If you will look at the rating of most of the hair manufacturing houses in New York City you will find that they have all accumulated a great deal of money.

Hair combings used for mattresses and stuffings, etc., in value less than 15 cents per pound, imported in bales, should come in here free of duty, because it is not manufactured into hair, but used as a cheap upholstery article.

Braids for plaiting hats, straw plait, hemp plait, grass plait, etc., shall all come in here free of duty, while the duty on manufactured hats untrimmed should remain 35 per cent and on lined hats ready for wear remain at 50 per cent. The competition of England and Japan itself on hats made of Japanese and Chinese strawbraids is so strong that English-made hats are coming in here in large quantities every season in spite of the 35 per cent ad valorem duty.

Straw plait now pays 15 or 20 per cent if colored or dyed. Straw plait twice or three times in my experience was on the free list. The manufacture of mackinaw is so insignificant that it cuts no figure in the manufacture of hats, and there are no cheap fibers in the United States which lend themselves to the manufacture of hats.

Another article which can very well stand the duty without interfering particularly with the cost of production would be a duty of 25 per cent on rubber unmanufactured, with double this duty on rubber which has been advanced by chemical process in value and is imported here practically without any loss when manufactured here, owing to the impurities being eliminated. Para rubber, which sold about two years ago at over \$2 per pound, and has probably averaged for the last two years over \$1.50, is now selling at \$1.05 to \$1.10, according to quality. This rubber shrinks about 10 to 11 per cent in moisture, while Ceylon sheet rubber, with probably no loss, sells for \$1.15 per pound, and crude rubber containing impurities from 18 to 25 per cent, is worth about 75 cents per pound. The rubber trade has been so wonderfully prosperous in the last few years, the consumption having immensely increased, and as a great deal of it goes into automobiles and other articles of luxury the duty would never be felt.

While I favor a revenue tax on manufactured tobacco in our own country, foreign tobaccos, which are imported here from Sumatra, China, Turkey, etc., should come in free of duty, because it would greatly improve the quality of the smoking material in the United States and at the same time hardly affect the prices of American tobacco, of which, according to statistics, a great proportion is exported to Europe and furnishes France and Germany and Italy with cheap tobacco.

I beg to remain, dear sirs, very truly, yours,

IVAN PUSTAU.

BRIEF OF B. F. TAYLOR, REPRESENTING SOUTH CAROLINA COTTONSEED CRUSHERS ASSOCIATION.

COLUMBIA, S. C., January 8, 1913.

The WAYS AND MEANS COMMITTEE,
House of Representatives, Washington, D. C.

GENTLEMEN: On behalf of the cottonseed oil mills doing business in the State of South Carolina, of which there are 111 mills actually engaged in such manufacture, and whose combined capital amounts to nearly \$7,000,000, employing 3,600 persons, and spending for various expenses over \$11,000,000, and the value of whose products in the course of a year amounts to \$13,217,000, I wish to present for your consideration several items of the tariff of 1909 which in our opinion should be revised, and which will materially aid the manufacturers of cottonseed products and the consumers of same.

SCHEDULE A.

Paragraphs 73, 75: Alkalis are used in the refining of cottonseed oil, and a reduction in the rate of duty on these articles is desirable from our standpoint.

Paragraph 38: Edible olive oil now takes a duty of 50 cents per gallon. This oil competes with cottonseed oil, and from our standpoint it should be given no advantage over our product. Italy discriminates against cottonseed oil in its duty, and we can see no reason why we should admit the Italian product at a low duty to compete with our product.

SCHEDULE B.

Paragraph 90: Fullers earth is used in the refining of cottonseed oil, and we have never yet been able to find a satisfactory substitute for the English fuller's earth, which now takes a heavy duty. This duty should be removed.

SCHEDULE C.

Paragraph 125: Cotton ties are used in the putting up of bales of linters manufactured by the oil mills, as well as in the ginning operations, and any tariff on cotton ties affects directly the farmers who produce the cotton as well as the oil mills. The duty should be removed.

Paragraph 128: Tin cans and tubs are used by the manufacturers of cotton oil and lard compounds, and any reduction that can be secured on tin plate will be of material benefit to the industry, as well as to consumers.

SCHEDULE D.

Paragraph 210. Oil barrels, lard tierces, tubs, and soap boxes are incidental to the marketing of cottonseed oil and its compounds, as well as soap. The present duty on these articles is 30 per cent ad valorem. Oil barrels and tierces are getting very scarce and going up in price on account of scarcity of material. A reduction in the duty on these articles will be of material benefit to manufacturers and consumers.

SCHEDULE G.

Paragraph 249. There are more oil mills in the United States, with greater capacity, than there is production of cotton seed. If we could get a seed that we could work during the summer months that would be easily stored, it would materially benefit the industry. Soya beans, on which there is a duty now of 40 cents per bushel, are eminently suited for crushing with our present machinery, and the oil made from them is rapidly becoming a factor in the manufacture of soap. There is no reason why there should be a duty on the beans, since the oil manufactured from these beans in England is admitted to this country free of duty.

Paragraph 288. The present duty on lard is $1\frac{1}{2}$ cents per pound. The cottonseed oil industry is opposed to a reduction in the duty on lard, since if it is reduced or placed on the free list it would result in competition with the edible oil and cooking fats produced by the cottonseed oil industry. If the duty is entirely removed the American market may be flooded with inferior lard, which is produced in China in great quantities. At the present time Congress itself imposes a duty upon cottonseed oil compound in the shape of oleomargarine in order to protect the butter industry. There is no reason why our product should be discriminated against, and the modicum of protection afforded in the duty on lard and other oils introduced into this country is certainly needed by the industry.

SCHEDULE J.

Paragraph 352. A material reduction in the duty on bags and sacks would be of material aid to the oil mills. At the present time our expense for bags amounts to at least \$1 a ton for sacking our products, and a reduction in this cost would result in a corresponding reduction in the price asked from the consumer for our products.

Paragraph 355. We are in favor of the removal of the duty on bagging for cotton, as nearly all oil mills are ginneries of cotton, and a reduction would benefit the farmers as well, as they would have the option of buying their own bagging if they saw fit to do so.

SCHEDULE K.

Paragraph 370. We think that if any reduction is made in the woolen schedule on the manufactured articles that a corresponding reduction should be made in the raw material. We do not believe that the manufacturers of camels' hair press cloth and woolen press cloth, which is used by the oil mills, should be legislated out of business. If the tariff is taken off of the manufactured article we think it should be taken off of the raw material so as to put these manufacturers on an equal basis with the foreign manufacturers.

FREE LIST.

Paragraph 640. We wish to retain oleo stearine on the free list.

Paragraph 639. There should be a duty on soya-bean oil, as it competes with the lower grades of cottonseed oil. We think a duty of one-fourth cent per pound would be sufficient, and also that this would furnish some revenue for the Government.

Respectfully submitted.

SOUTH CAROLINA COTTONSEED CRUSHERS ASSOCIATION,
By B. F. TAYLOR.

BRIEFS SUBMITTED BY FRANKLIN PIERCE, NEW YORK, N. Y.

NEW YORK, December 16, 1912.

HON. OSCAR W. UNDERWOOD,
House of Representatives, Washington, D. C.

MY DEAR SIR: I have observed in the newspapers the dates before your committee which you have fixed for discussions upon the various schedules of the tariff. I do not want to be heard upon any of these schedules because I am quite conscious that I have not sufficient technical knowledge on any one schedule as to be of aid to your committee. I have, however, something in mind which, if I can get the time to come to Washington, I would like to present to your committee.

We have become so used to outrageous tariffs in our country as not to appreciate that we have such a tariff. Sixty-five per cent of all the German imports of manufactured products pay duties and the average ad valorem duty on this 65 per cent is 12 per cent. Our duties, on the other hand, are about four times that amount, or, as I remember, forty-one and a fraction ad valorem on the entire duty-paying imports. Outside of Russia there is no other country in the world which has such monstrous duties and we have actually got so used to these enormities that we do not know what is moderate and temperate.

If nothing effectual is done by Mr. Wilson's administration to do away with the industrial combinations, a considerable reduction of the tariff will not relieve the distress among the consumers. Our combinations in restraint of trade are able to avail themselves of the full amount of the tariff left when you get through with your revision.

But that is not all. No country in the world has so great a barrier against foreign imports in its natural conditions as ours. There is not an element of iron or steel that could be imported into our country and taken farther than Harrisburg, even though there was no duty upon iron and steel, as you well know. What is true of iron and steel is true to a great extent of all imports of bulky articles. Again, we lead the world in the hand labor saving quality of our machinery, and we have the greatest supplies of raw material, and are better fitted for manufacturing than any other country in the world.

Now, these are only a few of the things on which I want to talk to your committee, for I am just as sure as I can be that there will be a terrible disappointment among the people at the lack of relief which comes from the tariff as it will be reduced, and then they will damn the Democratic Party and say that it has humbugged them. The reduction of the tariff will never give complete relief, however much you reduce it, until domestic competition is restored.

It is along this line and along the line of the benefits which will come to our people through exports induced by imports that I want to talk to your committee, and all the talk will lead toward inducing them to bring about such a reduction in the tariff as will avail something to the people.

Pardon this long letter.

Sincerely, yours,

FRANKLIN PIERCE.

THE WAYS AND MEANS COMMITTEE OF THE HOUSE OF REPRESENTATIVES:

You have been listening to hundreds of manufacturers who are insisting that you should not reduce the duties on imports. They have for 50 years been in the habit of making this same plea. As a rule they know little about the cost of production abroad or the benefits of commerce or their superiority in the use of machinery over their foreign competitors or any of the elements which go into manufacturing. They have been so long shut off by high duties from commerce with foreign countries that they know very little about the result of freer commerce with the world, and therefore they object on general principles to any reduction in the tariff.

The writer has no interests to protect and nothing to be anxious about except the general welfare of the great body of our people. The Democratic Party has pledged itself to relieve the consumers, and the tariff bills which it contemplates approving, if we can judge from the tariff bills which have been presented during the present Congress, will not relieve to a considerable extent the burdens of the people, and there will be general dissatisfaction with the results. The consumers expect great results from these bills, and if they get slight results they will think that a tariff for revenue is a humbug.

The reason why relief will not be obtained by these tariff bills is that the existing tariffs are simply outrageous when compared with the tariffs of the remaining countries of the world. Let us see:

Sixty-five per cent only of all the imports of manufactured products into Germany pay duties and that an average ad valorem duty of 12 per cent and we are taught to believe that Germany is a highly protected country. The average rate of duties in Holland is only 10 per cent; in Belgium less than 15 per cent; in Denmark less than 10 per cent, and in every other European country outside of Russia, much less than our own tariff. There is not one of our competitors in the commerce of the world which, according to the ideas of the Republican leaders, is not upon a free-trade basis. Now where, as with us, duties on woolen goods, cotton goods, glass, pottery, and a large number of other manufactured products average upward of 50 per cent, and where the average rate of duty on all dutiable imports reduced to an ad valorem basis is 41 per cent and a fraction, even if you reduce the whole line of duties one-half you have still left the highest duty in the world outside of Russia, and you still have a highly protective duty. Such a reduction may fool the people for a short time, but if the burden of prices continues they will soon discover it and declare that tariff reform is a fraud.

The difficulty with conditions in our country is that ever since the Civil War all the forces have been directed toward creating fictitious values of property. Gold has flown into the country and exports have exceeded imports, and that means that gold has accumulated in our country until, per capita, we have the largest amount of money of any people in the world, and an artificial value has come into existence upon all kinds of property. In short we have prices artificially enhanced not only by protective tariffs, but by a constant balance in our favor in the trade of the world. These conditions of high prices have been created by the fact that domestic competition has been destroyed by the trusts and even though you reduce the tariff and reduce it very materially, the trust or combination in restraint of trade will simply keep the duty clear up to the tariff line, and will give the people no relief whatever.

Now let us see the nature of some of the proposed tariffs, if we are to judge by the prior bills. The metal schedule is to be reduced from 34 per cent or thereabouts to 22 per cent, and back of all this schedule are the combinations which can hold prices up to the duty line, and to-day they are not utilizing the duties to that extent. They can be subjected to such a reduction as you propose and still sell their products for the same prices that exist in the market to-day, and there is no doubt about it. You will still be imposing with such a duty burdens almost twice as large as the duties on iron and steel in the majority of the other countries of the world which are our competitors. We are now exporting several millions of tons of iron and steel and selling them in the open markets all over the world, and behind our home manufacturers is a combination which is destroying domestic competition and robbing our own people, and still you propose to give these people duties of 22 per cent when they do not need any duties at all, and when more revenue would come from low duties than from such duties as are in the proposed bills.

The average duty on woolen cloth under the bill proposed in the present Congress was about 48 per cent, as I remember. Of course, this includes as compensatory the duties on raw wool. But why should not the duty on raw wool be taken off entirely, and the duty on woolen goods be put down not to exceed 10 per cent? Our sheep herders are the biggest lawbreakers on the face of the earth. They appropriate to themselves the use of the public domain and raise wool in many of the western States as cheaply as it can be raised in any other country. There is no reason in the world for duties upon raw materials in a country like ours, with such advantages of pasturing and feed for animals as ours. The Democratic Party has pledged itself to relieve the consumers from these burdens and it surely will not keep that pledge if it does not reduce the duty on woolen cloths twice as much as the proposed bill provides for. The duties on women's and children's dress goods, which in 1910 constituted 40 per cent of our imports of manufactures of wool, was about 102 per cent on an average, and it ought not to be over 10 per cent. The duty on cotton laces and dress trimmings, which constituted 60 per cent of our cotton imports, was at the time of the Civil War but 35 per cent and is now 60 per cent. On hosiery this duty was about 35 per cent during the Civil War and now it is about 70 per cent, the duty on the cheaper grades being in the neighborhood of 90 per cent, and if it is reduced in the proportion of the proposed bill, it will still continue the high price of clothing.

The average duty on cotton imports is about 47 per cent. It was in 1910 on imports of cotton 54.6 per cent, and you propose to reduce it to 27 per cent, and if you do, you will still have the high prices and the extortion of consumers. It should be reduced to at most 10 per cent ad valorem and both cotton and woollen imports will produce more revenue under such reductions than they produce to-day. You do not get revenue for your Government by shutting out imports, but by letting them in, and if you shut out imports, you shut in exports. Our American people have the greatest con-

fidence in their ability to do things at home, and yet they are cowards in their legislation as to foreign competition. The ability to compete with the world depends upon the effectiveness of labor. We pay the highest price for labor on the farm and export our products into every part of the world, because they are made effective by cheap land and abundant machinery. England manufactures \$600,000,000 worth of cotton cloth every year and exports it to Germany and other countries, and she pays 20 per cent more for the labor of her operatives than Germany and undersells them in their own markets because her labor and her machinery is more effective, and so the rule all over the world is that effective labor and effective machinery makes a country exporters and we have both of these, and yet we lie down in the furrow and doubt our capacity to conquer the markets of the world. We teach our people not to believe in their ability to compete with the world, when they do everything faster, produce greater quantities of product per capita, use more labor-saving machinery, and have more intelligent men in their factories than any other people on the earth, and could win the markets of the world if they were given free raw materials from abroad and cheap material at home with which to manufacture, and all because they have been taught in all these years that they were inferiors to the rest of the world.

The Hon. Ebenezer J. Hill, of your committee, whose knowledge of the comparative productive power of men in different countries is unrivaled by any man in our country said, on the 17th day of August, 1912, in the House of Representatives:

"Wages of weavers in the Japanese mill are, it is true, only 18½ cents per day as against \$1.59 per day in the American mill, but it requires 700 weavers to do the work in a Japanese mill as against only 53 in an American mill, and the total cost per day for weaving in the Japanese mill is \$129.50 as against only \$84.27 in the American mill. Putting it in another way, one American weaver for \$1.59 does as much work as 13 Japanese weavers for \$2.40."

And he quotes from the tariff board report on page 11 thereof, as follows:

"In the case of plain looms, not automatic, the English weaver seldom tends more than four looms, while in this country a weaver rarely tends less than six, and more frequently eight, or even twelve if equipped with warp-stop motions," and he tells us that "automatic looms are little used in England, while there are over 200,000 in the United States, and on such looms the American weaver commonly tends 20 and sometimes as high as 28."

And this truth about comparative cost of manufacturing with us is true in many industries whose owners have been before you pleading for protection against cheap foreign labor, and claiming that protection takes care of labor, when the lowest paid labor in the United States is among the operatives of the cotton and woolen factories and the producers of iron and steel. Through our high tariff, far above the tariff of any other country except Russia, we stop the flow of imported goods, while our trusts come in and practically destroy domestic competition and fix artificial prices upon all the necessities of life. The great combinations own their raw materials and their competitors in business have to buy their raw materials of them, and still, while they are exporting their goods by the hundreds of millions, we put up high barriers against foreign trade to let them sell their goods at trust prices to our own people. In this way millions of our small farmers, traders, laboring men, professional men, and salaried people are robbed by these terrible conditions.

If you disappoint these people in removing these burdens, the Democratic Party will be entitled to the contempt of all the voters. No people in the world ever had so little need of high protective tariffs as ours. We use more machinery than any other country in the world, and what is more important, our country is so wide that bulky imports can not go 100 miles inland if there was no tariff, and our industrial trusts have their factories scattered all over the country. The great body of these manufacturers in the interior could never be affected to any great extent if we eventually went to a free-trade basis, although a sudden return to free trade now would shake the economy of our country, and wise policy requires that we gradually approach it with such caution as to allow industries actively engaged in protected lines of trade to adjust themselves to the situation and to apply their manufacturing capital to the production of other classes of commodities if it becomes necessary.

The attention of our people for 50 years has been directed to protection as the source of all our prosperity. The time has come now for an intelligent use of our resources. That condition can not arrive unless we establish hundreds of technical schools to educate our operatives as Germany has done and is doing. It will not come unless we stop the predatory habits of our people in destroying our natural resources of soil and forests and commence conservation all along the line. It will not come to the farmer until agricultural banks are established with low rates to free him from the grip of the usurer. It will not come until we get clearly into our heads

that to shut out imports is to shut in exports, and that we are the most energetic, most active, the most intelligent people on the face of the earth, and that we can compete against anybody and that we ask no favors, but propose to have the markets of the world on our merits.

You are seeking to prepare a tariff for revenue only, and it is well to give full force to the effect in so doing that a considerable proportion of all the duties imposed are prohibitive. Literally, hundreds of the productions of foreign countries are prohibited by our tariff from being imported. The duties which will produce revenue from foreign imports are low duties on a few imports in common use by our people and which can be purchased cheaper abroad than at home. No tariff policy is more fatal to the production of revenue than high protection.

In Great Britain duties are imposed on 15 classes of goods. Of these 15 classes, tobacco, tea, spirits, and wines produce about nine-tenths of the whole revenue and the entire revenue in 1907 was 32,500,000 pounds or \$162,500,000. The number of revenue-producing imports in the German tariff was in the same year 946, and the average duty, even including grains which pay high duties, would not exceed 15 to 20 per cent. But still the duties were so high that with 946 several imports paying

duties, as against 15 classes in Great Britain, only 30,000,000 pounds or \$150,000,000 was raised in that year from the duties on imports. In our own country in the same year we had on our tariff schedules about 3,000 dutiable imports. The duties on hundreds of these were so high that they were prohibitive. The average duty was about 44 per cent and the amount of revenue raised from all these 3,000 imports was only \$332,283,362. The existing tariff is even more prohibitive in its nature for during the year 1912 only \$311,321,672 was collected from customs, while with little cost, comparatively, and no dislocation of business by reason thereof, in the same year, we collected \$321,612,199 from our internal revenue, \$28,583,303 thereof being the corporation tax.

FRANKLIN PIERCE.

NEW YORK, January 24, 1913.

STATEMENT SUBMITTED BY L. J. SALOMON, BROOKLYN, N. Y.

BROOKLYN, N. Y., January 9, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: Referring to an article in the Journal of Commerce of January 9, which I presume is accurate and to the point, it is certainly the view that should be taken on all raw materials that enter into the manufacture of any wares or goods that are manufactured in this country, and especially does this apply to such raw materials as can not be procured in this country.

Our manufacturers should be placed on a footing of securing their raw materials at the lowest possible price.

Manufactured goods from Asiatic and European countries.—To enable these foreign manufacturers to dispose of their goods in this country where they are compelled to pay a tariff, you will find in many instances that the merchandise in this country can be purchased for less money than in their home markets with the exception possibly of England which is a free trade country. But the consumer in other sections of the world is compelled to pay more money for his manufactured goods than you do right here in our city of New York. And this applies also to wines and liquors, and even other classes of merchandise in England is somewhat higher priced than in this country.

Transportation.—If a company could be formed in this country, even if our Government was compelled to subsidize and place the American flag in every little corner of this world, it would be the greatest advancement that could be made toward the welfare of this great country. As it is to-day the European storehouse, owing to our unfortunate Civil War, has become the storage warehouse of the entire world, together with the wiping out of the American flag on the high seas.

The writer who has traveled considerably, and has lived in the Far Eastern country for very many years, my first trip being in 1879, readily recognizes our weakness, and anything that can be done toward placing us on a footing where we were previously to 1860 would be one of the greatest benefits that could be conferred upon us; and with free raw material and floating the American flag under the most generous laws possible would certainly help us out considerably, and bring us away from the necessity of using any manufactured goods in which the raw materials play a great feature.

A visit to our steamship docks surrounding the city of New York would certainly be convincing of how dependent we are to the foreign nations of the world for considerably many of our manufactured goods, and this is all wrong. We should make everything that we consume and export a whole lot more.

Very truly, yours,

L. J. SALOMON.

STATEMENT OF JOHN L. M. ALLEN, NEW YORK CITY.

NEW YORK, *January 14, 1913.*

HON. OSCAR W. UNDERWOOD, Chairman,
Washington, D. C.

DEAR SIR: Referring to your letter of December 12, 1912, with which you sent me the schedule of hearings on the revision of the tariff, I regret to say that my engagements were such that it has not been possible for me to attend the hearings.

My interest, however, is not in any one schedule, but rather in the application of right principles to the administration of the tariff laws as to all schedules.

All talk of the fear of foreign competition under lower duties should yield before the fact that the foreigner is now making his goods for the American market right here in America and is collecting the tariff tax which should go to the American Government, and, further, it should be made known to the American people that neither the American nor foreign beneficiary is compelled to render an accounting of the amount of the taxes so collected.

The element of secrecy which is developed under our indirect system of supporting the manufacturers is what I urge you to attack and destroy. First, as to the concealment of the foreigner's nationality, and, second, as to the failure to make public the sums collected from the people.

The American people are in dire distress on account of their ignorance of these two conditions.

In order that the tariff laws may be so amended that all dutiable goods made in foreign-owned factories and sold in America shall pay duty to the American Government, evidence of the presence of foreign ownership must be first obtained.

As the State governments appear to have failed to require such information when granting articles of incorporation, permit me to suggest to you the propriety of obtaining and putting such evidence on record while the protected manufacturers are now coming before your committee in opposition to your patriotic policy of tariff revision downward.

With my letter to you dated December 10, 1912 (see Schedule I), you received printed copies of evidence before a congressional commission, from which it was proved that the American Thread Co. was owned and controlled by English capital. It was further shown that other large concerns making cotton thread in America were also owned by the English, so that the English practically monopolized that line of manufacture and made in their American factories nearly all the cotton thread that is consumed in America. This English control is an injustice to American capital and operates also to exclude the importation of cotton thread from abroad, thereby depriving the American Government of the customs duties.

It is known that there is no national statute to meet these conditions by enforcing the publicity of the nationality of foreign capital invested in America, but you now have the opportunity for obtaining as to other industries than cotton thread the evidence of foreign ownership, and when that evidence is on record it may be used as the basis for legislation which will deny to the subjects of foreign governments the right which they now wrongfully enjoy of sharing with Americans, on equal terms, the collection of tariff taxes from the American people.

Should the sums so collected also be ascertained by your committee now, there is reason to believe that the results will show that the subjects of foreign governments are collecting from the American people in tariff taxes from 5 to 10 times as much as the American Government collects in tariff duties on imports.

I have mailed to each of your Democratic colleagues on the Committee on Ways and Means a copy of my letter to you dated December 10, 1912, with the three inclosures. It is my hope that you will seize the opportunity to put in the Congressional Record a statement of the conditions to which I have called your attention, so that the information may be distributed among the people. The newspapers being also under foreign control, have repeatedly declined to print my communications on the subject of foreign influence.

With best wishes, I am, yours, truly,

JOHN L. M. ALLEN.

STATEMENTS SUBMITTED BY THOMAS O. MARVIN, SECRETARY HOME MARKET CLUB, BOSTON.

MARY KONOVSKY'S WAGE.

THE HARD PROBLEM PRESENTED BY THE CASE OF A NEW YORK MILL GIRL—WHO WILL BID \$6.90 A WEEK FOR HER SERVICES? NO ONE? THEN "ARE WE NOT A NATION OF HYPOCRITES?"

[From the New York Sun.]

Among the stories of striking mill operatives at Little Falls told to the Commissioners of Mediation and Arbitration for the State of New York, that of a girl whom I shall call Mary Konovsky was the most impressive in many ways. This young woman swore to the following statement, rendered into English by an interpreter:

"My name is Mary Konovsky; I am 22 years old. I can speak no English, nor can I read or write in that language. I was born in Russian Poland. I have been in this country three years. I was employed as a spinner in the X mill. I earned \$6 a week. I live in a room with two other girls as poor as myself. For this room we pay \$3 a week. We get our own breakfast and have dinner at a restaurant. When working we took our lunch with us to the mill and ate it there. I send no money home because I have none. I struck because my pay was too low. I want a raise of 15 per cent, and will return to work if I get that."

This testimony of Mary Konovsky has been published and republished throughout the country. In consequence, thousands of kind-hearted people have grieved over the pitiable condition of this poor Polander, and their hearts have ached for her and her fellow strikers. The more sensational publications have held up to the execration of mankind the heartless, sordid manufacturers who paid such poor wages.

With your permission and through your courtesy, I would like to say a few words directly to these sympathetic people. Ladies and gentlemen, Mary Konovsky stands before the commissioners. Have a look at her. She is a poor human creature, born and bred in poverty and misery, uneducated, untrained, stolid, stupid, but possessed of an immortal soul and eager for the betterment of her condition. She wants \$6.90 a week, and will be satisfied with that amount. Her former employer, a manufacturer who has a large factory representing an investment exceeding a million dollars, who is the agent of the stockholders of his company, all of whom demand that he run this factory at a profit, says outspokenly:

"I will pay Mary Konovsky \$6 a week, and this is more than she is worth. She has no industrial training of any kind. All she is fit for is to mind a spinning frame and when the delicate threads break tie the ends together. Her fingers are very clumsy at this, and she makes a great deal of waste. I even have to get her a little machine to place on her fingers to tie these ends, for the machinery is much cleverer than she. American girls of her own age in my factory are making from \$10 to \$14 a week. I had rather pay Mary three times her wages if she were of proportionate value to me. Unwittingly, she has made me appear before my fellow men a grinder down of the poor. She has injured my character and that of my mill. I will take her back if she wants to come, but really I don't want her. I want trained, educated girls if I can get them. There she stands. Her services are for sale at \$6.90 a week."

You have heard the despised employer of labor, kind ladies and gentlemen. The services of Mary Konovsky are for sale. He bids \$6 a week. What will you bid? You, Mistress Housewife, with tender eyes, will you pay more than \$6 a week for Mary?

"No," you say. "She can not speak English. She is a mere peasant; knows nothing of the mechanism of a modern kitchen. I don't want her."

You, Mr. Storekeeper, what will you give? You could not use her services? She would not be able to stand behind your counter and sell goods? She is unprepossessing and uncouth? She can not speak English? And what is this you say?—

"I can not afford to pay \$6 a week for girl clerks."

We pass you up for a kind gentleman, who, perhaps, gushed unthinkingly. Come on, all the rest of you, doctors, lawyers, clergymen, politicians, editors, what will you bid for the services of Mary Konovsky?

She wants only \$6.90 a week. For God's sake, gentlemen, don't let the cruel mill get her again. Take her into your homes, into your offices, into your studios, give her a chance in the world. You cry all together, "We don't want her. We have no use for her; but make that mill man pay her a living wage. She has our sympathies, but you can see plainly we can not employ her."

And you over there by the door, leaning against each other in sweet accord, you two, Mr. Labor Agitator and Mr. Yellow Journalist, come up here and look at Mary. She wants a living wage. Will you give it to her?

"No," you snarl back at me. "We won't give it to her, but we will get it for her. We will bring mankind down to the level of Mary Konovsky, where she will have an equal opportunity in a fair competition of hands and brains."

And you, you, Mr. Commissioner, you are last of all, you who love to investigate your fellows; speak up like a man and make us a bid for Mary. Not a peep out of you? It really looks as if it were up to Mary to choose between the river and the mill.

Is there a true lesson in this letter? Are we not a Nation of hypocrites, a race loving to pluck at the beam in our brother's eye, being blind ourselves?

THE AMERICAN TARIFF POLICY.

Tariff laws are enacted to raise revenue for the support of the Government, to regulate commerce with foreign nations, and to provide for the general welfare.

The first tariff debate in the American Congress was opened by James Madison.

In presenting a resolution in favor of levying duties on imports, he declared that there were two points for consideration, the first being the regulation of commerce, the second the raising of revenue.

These are crises in national history when the revenue features of a tariff law are deemed wisely and justly of supreme importance. Such an occasion was our second war with England, when increased revenue to prosecute the war was absolutely necessary, and on July 1, 1812, an act imposing additional duties of 100 per cent upon all goods and merchandise imported from any foreign country was passed.

Another such occasion was the passage of the act of August 5, 1861, which increased the duties, levied a direct tax of twenty millions, and imposed an income tax in order that the Government might obtain means to prosecute the war. Tariff laws have been passed to reduce the revenue, not to increase it, a notable instance being the McKinley law of 1890, the preamble of which declared that it was "an act to reduce the revenue and equalize the duties on imports." But in most cases the revenue feature has been only one of the objects of tariff legislation.

If the theory proclaimed by the Baltimore platform that the Federal Government has no right nor power to impose tariff duties except for revenue is correct, then the act of 1792 "for raising a further sum of money for the protection of the frontiers" was unconstitutional.

Unconstitutional, also, were the acts "to protect the commerce and seamen of the United States against the Barbary powers," and the act of 1813 "for reducing the duties payable on prize goods captured by the private armed vessels of the United States," an act specially designed to encourage privateering, a once flourishing industry of New England.

If the Government has power to lay duties for revenue only, then it had no right to pass the act of 1823 levying a penalty of 50 per cent additional duty on goods imported below their true value; and it had no right to pass the acts regulating commerce with the islands of Martinique and Guadeloupe, with the port of Cayenne, and the islands of Miquelon and St. Pierre. And yet all of these acts were passed between the years 1792 and 1845, when Congress well knew the meaning and intent of the Constitution, and during many of these years there sat in the halls of legislation men who helped to draft the Constitution, and some of these acts were signed by Presidents who were members of the Constitutional Convention.

Thus, under the provisions of the Constitution and by the sanction of over a century of national legislation, we have power to pass tariff laws for other objects than revenue only.

PROTECTION IS CONSTITUTIONAL.

When our first Congress assembled, shortly after the ratification of the Federal Constitution, it might have been claimed with much justice that the reve-

nue needs of the Government were of paramount importance. In fact, the revenue needs of the Central Government were one of the prime reasons for the formation of that "more perfect union of the States."

During the first tariff debate following the introduction of the resolution by Madison to levy duties for the regulation of commerce and the raising of revenue, Mr. Hartley, a Representative from Pennsylvania, said that it was contemplated by some "to enter on this business in a limited and partial manner, as it relates to revenue only. For my part," he said, "I wish to do it on as broad bottom as is at present practicable"; and he went on to say, "If we consult the history of the ancient world we shall see that they have thought proper, for a long time past, to give great encouragement to the establishment of manufactures by laying such partial duties on the importation of foreign goods as to give home manufacturers a considerable advantage in the price when brought to market. I think it both politic and just," he declared, "that the fostering hand of the General Government should extend to all those manufactures that will tend to national utility."

It was not necessary for the Members of that Congress to consult the history of the ancient world for precedents for a policy of protecting and encouraging domestic manufactures. They could have found these precedents in the annals of the provinces which later joined in a union of the States.

As early as 1640 the General Court of Massachusetts encouraged manufactures by a bounty of 3 pence on every shilling's worth of cotton, linen, and woolen cloth, and in 1645 it passed an order to encourage the establishment of sheep as a foundation for woolen manufacturing. In 1667 Massachusetts adopted resolutions advising the people to purchase only home-made goods. Virginia, Delaware, and Rhode Island adopted similar protective measures.

Up to the time when the Union was formed and the States surrendered to the Federal Government all control over import duties many of the States had their own tariff laws for raising revenue and encouraging industry, and when they transferred this power to the Federal Government they transferred both the power to raise revenue and protect industries.

Madison fully recognized this fact and in the debate on the first tariff act he said, "The States that are the most advanced in population and ripe for manufactures ought to have their particular interests attended to in some degree. While those States retained the power of making regulations of trade they had the power to protect and cherish such institutions. By adopting the present Constitution they have thrown this power into other hands; they must have done this with the expectation that those interests would not be neglected."

Here is a man, one of the expounders of the Constitution, a friend and disciple of Jefferson, and who succeeded him as President of the United States; a man, too, who confessed to a belief on general principles that commerce ought to be free, yet he declared that the power which the States had had of protecting their industries had been thrown, by the adoption of the Constitution, into other hands, with the expectation that those interests would not be neglected by Congress. While they retained that power they succeeded in developing some establishments which, he said, "ought not to perish from the alteration that has taken place; it would be cruel to neglect them and divert their industry to other channels."

In such a spirit, then, and fully recognizing the power of the Federal Government to protect and encourage the industries of the country, and granting the right and the justice of doing so, the American Congress in its first session after the adoption of the Constitution enacted our first tariff laws on goods, wares, and merchandise imported, and levied the duties, as the preamble of the act declares, "for the support of the Government, for the discharge of the debts of the United States and the encouragement and protection of manufactures." This act was signed by George Washington, who presided over the convention which adopted the Constitution.

From that day to this tariff acts for other purposes than revenue have been passed by both parties and signed by Democratic as well as Republican Presidents.

It was recognized that the Constitution conferred upon Congress the right not only "to lay and collect taxes, duties, imposts, and excises," but "to regulate commerce with foreign nations," and to legislate for "the general welfare."

Thus, under the provisions of the Constitution, which authorizes Congress to levy taxes on imports from foreign countries to raise revenue, to regulate commerce, and for the general welfare, it is both legal and proper to pass tariff laws for other purposes than revenue only, and this custom has the sanction of over a century of national legislation.

The policy of protection was adopted by the first American Congress and incorporated into the first tariff law passed by the Federal Government. It was approved by Washington, who said: "Congress have repeatedly directed their attention to the encouragement of manufactures. The object is of too much consequence not to insure a continuance of their efforts in every way which shall appear eligible."

It was approved by Jefferson, who said: "Experience has taught me that manufactures are now as necessary to our independence as to our comfort," and asked, "Shall we suppress the impost and give that advantage to foreign over domestic manufactures?"

It was approved by Madison, who said, "It will be worthy the just and provident care of Congress to make such alterations in the tariff as will more especially protect and foster the several branches of manufacture."

It was approved by Monroe, who said: "Our manufacturers require the systematic and fostering care of the Government. Equally important is it to provide at home a market for our raw materials."

It was approved by Andrew Jackson, who said: "The great materials of our national defense ought to have extended to them adequate protection, that our manufacturers and laborers may be placed in fair competition with those of Europe."

Such was the policy adopted by the founders of the Government and the framers of the Constitution. We owe the policy of protection to the men who drafted the Constitution.

Andrew Jackson must have anticipated the recent tariff plank of his political heirs when he said: "The right to adjust duties with a view to the encouragement of domestic branches of industry, if not possessed by the general Government, must become extinct, and our political system would present the anomaly of a people stripped of their right to foster their own industry and to counteract the selfish and destructive policy which might be adopted by foreign nations."

We do possess this essential right of Government, and it should be exercised not only to raise revenue, but to promote the general welfare and for "the encouragement and protection of manufactures."

INDUSTRIAL CONDITIONS IN GERMANY.

The attention which has been paid by the witnesses who have testified before this committee to the possibility of serious competition from the manufacturing establishments of Germany is evidence of a prevailing belief in the potentiality of German competition if tariff duties are materially reduced.

Bismarck was largely instrumental in securing the adoption of the protective tariff by the German Empire, and he recommended this economic policy to Germany because he believed that the phenomenal prosperity of the United States was largely due to its system of protective laws.

In view of the interest which is taken in the remarkable industrial development of Germany since it adopted the protective policy, I respectfully ask permission to incorporate in the reports of these hearings the following quotation from Robert M. Berry's book on Germany of the Germans:

"GERMANY'S GREAT INDUSTRIAL MOVEMENT.

"Rarely indeed in the history of the world has a nation made such rapid commercial and industrial progress as has the German Empire since its foundation in 1871. Till that time split up into small fractions, filled with petty jealousies, the nation, soon after its union, began to feel its strength and to seek for outlets for its enormous latent energies.

"The best thought, the keenest intelligence, and the greatest energy of the nation have been and are being concentrated on the advancement of its prosperity and devoted to the task of raising it to a higher plane. Where formerly the classics occupied the minds of the leading men at the present moment economics are the leading branch of study. The causes of depression and prosperity among the principal foreign nations, and especially among Germany's trade rivals, are sought, so that mistakes can be remedied and fresh openings for trade secured. Theory and practice are no longer separated, but act in combination in commercial affairs, striving to push the nation forward to the front rank.

"SYSTEM ADMIRABLE.

"The industrial system which has been developed by all these efforts, although perhaps not ideal, is certainly admirable as far as organization and efficiency are concerned.

"The result may be seen in the gradual transformation of Germany from an agricultural into an industrial nation. The rural population, which in 1871 amounted to 64 per cent, had decreased in 1907 to 32.7 per cent, and since then has still further declined.

"The industrial growth may be measured to a certain extent by the amount of fuel consumed, which increased, in round figures, from 100,000,000 tons a year in 1895 to considerably over 200,000,000 tons in 1907.

"The value of taxable property rose from £283,901,316 in 1892 to £510,758,890 in 1906, when the last valuation was made.

"IMPORTS AND EXPORTS.

"The increases in the imports and exports are remarkably significant. In 1899, including precious metals, the total of the imports amounted to £220,710,000; in 1908 it was £415,095,000. The exports in 1899 were £178,795,000; in 1908 they were £350,980,000. From these figures it can be seen that foreign trade has almost doubled, but the imports have increased in greater ratio than the exports.

"In the meantime the population during the same years increased from about 49,000,000 to about 63,000,000 at the end of 1908.

"CAUSES OF SUCCESS.

"In examining more closely some of the causes which have brought about German success it must be recognized that nothing is done haphazard. System and the will to attain their ends are the principal factors in their triumphs. Some of their methods may not appeal to other people, who regard them as destructive to individuality and personal initiative. The German looks at the nation itself as an individual and the people forming it as mere parts of that individuality, all of which have to be trained to act in unison so that the best result can be obtained.

"Their compulsory schooling is succeeded by virtually compulsory apprenticeship, compulsory manual training in the night schools, compulsory thrift, and compulsory military service—all tending to mold the people into those parts of the national machine which they are destined to become. Even when the German artisan is at work he is subjected to almost military discipline.

"WORKMEN'S DISCIPLINE.

"Perhaps one of the reasons why Germany is able to make so much progress in international trade, especially in machine-made articles, is the fact that German workmen are more amenable to discipline than those of other countries. It must be conceded that in machine work discipline counts for much, and the employers, as a result of the universal strict military service, have it placed ready to their hand. The German workman, as a general rule, does not possess much initiative. He will do what he is told to do and do it well, but beyond that he does not go. Specialization, under the new conditions brought about by the introduction of machinery, is necessary, and it is carried out to a fine point in Germany. A system of control, too, is practiced in order to get the most out of the workers during their hours of labor.

"COMPULSORY TRADE CLASSES.

"Law compels employers to send their apprentices to the continuation schools and to Sunday and evening classes for young artisans, which are organized by the local authorities.

"Even the training of business managers is undertaken by some of the technical high schools. For example, that in Dresden, which not only gives the pupils a thorough technical and theoretical knowledge of the trades they desire to follow, but teaches them how to direct the business of a firm, the handling of men, and the making of estimates.

"The situation of the workman is not so good as in America or England, but is being rapidly improved by the action of the trades-unions.

"WAGES AND HOURS.

"Wages have risen and working hours declined to a remarkable extent throughout Germany in the last 20 years. While living has become very much dearer, yet the workers are better off than they were. The tendency to improve their position is still marked, and manufacturers who, owing to the low wages formerly prevailing, were able to compete successfully without trouble at a goodly profit with foreigners, even often paying freight, now find that the German workman is demanding his dues and getting them to such an extent that the profits are cut down to a very low figure, and it is only owing to cutting off all waste expenditure and perfecting methods that they will in the near future be able to compete at all.¹

"Printers, miners, metal workers, stokers, machine men, woodworkers, glaziers, builders, carpenters, bakers, textile workers, and municipal employees have all succeeded in considerably shortening their working hours and have at the same time secured increases of wages.

"SOME FIGURES.

"Despite these improvements the position of many factory workers is not a brilliant one, as may be seen from an interesting collection of statistics obtained by the German Union of Factory Workers, composed of 140,000 members, to each of whom a circular was sent asking for information on these points. The replies received totaled 79,140, of which 73,088 were from men and 6,052 from women workers. Of the total 61,383 worked 54-60 hours per week, 11,183 worked from 60-72 hours and more weekly, and only 6,574 worked less than 54 hours weekly. The average weekly wage of all the women was 11s. 6d. Only 530 of the men received more than 35s. a week, and only 16 of the women more than 20s. weekly.

"FOREIGN WORKMEN.

"Probably the large number of foreign workmen coming into the country from lands where wages are still lower has retarded the increase of wages in some industries to a certain extent. The number of foreign workmen employed in the German Empire is, in round figures, 1,000,000, of whom 600,000 are engaged in industries and 400,000 in agriculture. Of the total 400,000 are Austrians, 270,000 Russians, 150,000 Italians, 100,000 Dutchmen, and the remainder of various nationalities.

"TRADES-UNIONS.

"The progress of trades-unionism was considerably assisted by the introduction of the compulsory-insurance laws for workmen, as these enactments relieved the trades-unions of a heavy burden. The position of the German Socialist trades-unions and the trade societies of Great Britain may be exactly compared, as they are numerically almost equal. In each country there are about 2,000,000 trades-unionists, and the income of the trade societies in each case amounts to about £2,350,000 annually. Their expenditure, however, is on an entirely different footing. The British trades-unions paid out in sick and superannuation pay, according to the yearly statistics for 1906, no less than £735,000, while the German trades-unions paid out only £190,000 for the same purpose. Death money to the total of only £10,000 was paid by the British unions, whereas the Germans paid out £115,000. Unemployed pay in the British unions totaled £430,000, while the Germans paid out only £180,000. As may be seen from these few figures, the funds of the German unions did not have so many calls made upon them. They were thus able to give a greater amount of pecuniary support to strikers, the total paid out under this head reaching £790,000, against only £160,000 paid out by the British unions for the same purpose. Strikes in Germany tend to increase every year. For the year under review they totaled 3,626 with 349,000 strikers, whereas in Great Britain they numbered only 486 with 158,000 strikers.

¹ The author of this volume overlooks the fact that wages are increasing more rapidly in the United States than in Germany and that the disparity in wages and cost of production promises to continue for many years, unless excessive competition forces American wages to a parity with those of Europe.

"THEIR MEMBERS.

"The exact number of members belonging to the Socialist trades-unions at the end of 1908 was 1,831,731. of whom 138,443 were women. There are two other important federations of trades-unions which are not of a political character, namely, the Hirsh-Duncker Federation numbering 105,558 members, and the Christian trades-unions comprising 264,519 members.

"In direct opposition to the trades-unions are the associations of employers. There were at the beginning of 1909 no fewer than 127 of these associations with a total membership of 159,304 employers, giving employment to 3,648,679 workers. They are, however, not so well organized as the trades-unions and up till the present they have not formed a central federation.

"WORKERS' BOOKS.

"Work books, once carried by all workers, are now confined to minors and domestics. In them are inscribed the name of the owner, place and date of birth, date of starting and quitting an employ, and nature of the occupation. In the case of minors under 16 the book also contains the name and domicile of the father or guardian. An employer may not write his opinion of the abilities of the worker or the reason for leaving in the book, either favorable or unfavorable.

"GENERAL WELFARE.

"The workers' welfare is well watched over in the workshops. Factory inspectors are at all times empowered to visit factories where 10 men and over are employed, and in trades regarded as unhealthy even where a smaller number of persons are engaged. In many factories where the work is of a dirty nature shower baths are provided, together with wardrobes for the men's outdoor clothing, for it is customary in Germany for the workman to change his outer clothing entirely before he starts work. This is one of the reasons why the workmen, in whatever trade, present such a clean, neat, and well-to-do appearance in the streets.

"It is a very rare thing for a worker to be accorded a vacation with his wages in a German factory, but of late years some firms have introduced the system and there is some likelihood of its spreading throughout the country, as the grant has tended to create more satisfaction with the conditions of labor where it has been introduced. The German workman has been badly off, indeed, in this respect, for he does not have a Saturday half holiday.

"WORKER'S FAMILY LIFE.

"The family life of the working people is on the most modest scale. They are usually contented with their lot in life, and do not share in the hunt after excitement and extravagance. Temperate to a remarkable degree, they delight to stay at home and enjoy the company of their wives and children and join with them in simple home amusements.

"The extraordinary thrift of the working classes—men and women—is shown by the savings banks' returns, which give a total of over 19,000,000 small depositors, who have £642,600,000 to their credit, all of which is guaranteed by the municipalities.

"SOME LARGE INCOMES.

"Although small incomes are the rule everywhere throughout Germany, there is a considerable number of persons who are in receipt of incomes which may be considered as placing them in very comfortable positions. According to the income-tax returns for 1908, there were in Prussia alone no fewer than 17,957 persons enjoying an annual income of between £1,500 and £5,000, a body of 3,796 persons who had over £5,000, 190 with from £25,000 to £50,000, and 77 with more than £50,000 a year.

"PRINCIPAL INDUSTRIES.

"Among the principal industries are those connected with coal, iron, and steel.

"Owing to the immense richness in coal of the Ruhr, the Saar, and the Upper Silesian districts, the iron and steel industries of Germany have a very high

there and have made such enormous progress that they now employ over 2,000,000 hands. Three works alone, the Krupp, the Phoenix, and the Gelsenkirchen companies give employment to over 150,000 people.

* Coal mining is a great industry, employing about 1,000,000 workers. The State takes part in it to a considerable extent. Of the total of 143,168,300 tons of coal mined in 1907 throughout Germany the State took out 10,693,000.

"GOVERNMENT MINES.

"The Government mines in the Star district employ 51,000 miners and officials whose families number over 200,000. Forty per cent of the men possess their own cottages; 31 per cent live with their parents; the remainder live in surrounding villages. The mines are models of organization and are situated in the center of artificially cultivated forests which belong to the State.

"In the Rhenish Westphalian coal district, which 30 years ago was almost undeveloped and only provided work for thousands, towns have sprung up, and hundreds of thousands are now employed. Everywhere can be seen slack heaps resembling miniature mountain ranges and flaming chimneys of iron and steel works.

"The production of pig iron has increased rapidly since 1900, when 8,521,000 tons were produced. In 1907, 13,046,000 were produced, but this total fell off to 11,814,000 in 1908, owing to the trade crisis which affected the whole world.

"Machinery construction forms a very important branch of German industry, employing over 600,000 persons.

"ELECTRICAL INDUSTRY.

"The electrical industry has spread to immense proportions and the companies connected with it possess vast resources and employ many thousands of men. They are at the present moment formed into three great trusts, which have eliminated the disastrous competition carried on by the host of smaller concerns before the economic crisis that occurred at the beginning of this country.

"The principal object aimed at by the trade, now that the municipalities have universally adopted the electric-lighting system and the tramways have all been transformed into electric lines, is the electrification of the great main lines of railway, nearly all of which are in the possession of the various States of the Empire.

"On numbers of the shorter and secondary lines electricity has been introduced and has proved very practical and economical in working. Railway engineers say that the cost of electrification is soon paid for by the diminution of the working force necessary, as the motors do not require so much cleansing, damage to forests by fire is avoided, whereby thousands of pounds yearly are saved; there is no smoke from locomotives to injure crops, a far smaller quantity of coal is necessary to develop the electricity than to run separate steam locomotives, and thus space and buildings are saved.

"CHEMICAL TRADE.

"Chemistry, in which over 90,000 persons are employed, has had its home in Germany since the beginning of the Christian era, and the Germans seem to have been among the first to discover the value of the natural treasures in the shape of mineral and vegetable salts, although owing to the diversions of the nation the chemical industry was not properly developed until later than in England. At the present moment Germany possesses practically a monopoly in the production of potash salts, so useful for fertilization purposes. Over £5,000,000 worth of these salts are utilized annually in Germany in the cultivation of the soil and enormous quantities are exported. In the manufacture of pharmaceutical preparations and smelling salts also Germany takes a leading part. In the past quarter of a century more discoveries have been made in chemistry than in any other branch of science, and with her natural resources and highly trained chemical specialists Germany promises to keep her lead in this respect.

"A NEW TRADE.

"One branch of manufacture, which is entirely new to Germany, has made enormous strides since its introduction. In very recent years Saxony has won a place in the manufacture of tulle which is causing considerable uneasiness in

other countries. In the vicinity of Plauen and Chemnitz factories have sprung up like mushrooms. Twenty years ago not a yard of tulle was made in the German Empire. Now 1,100 tulle frames turn out £2,000,000 worth annually, and more are being erected. The machines for the industry are also being constructed in the neighborhood, and it is said that the spools and shuttles, the secret of manufacturing which has hitherto been in English hands, has now been discovered, and that in future the whole trade will be entirely independent.

"OTHER BRANCHES.

"One of the most important glass works in the world is to be found in Jena, where 55 tons of optical glasses of all kinds alone are made yearly and exported over the entire world, including telescopic lenses up to 4 feet in diameter. Over 1,200 workers are employed.

"Other great branches of industry are quarrying, employing 317,000; the woodworking trades, in which over 200,000 people are engaged; the clothing trade, employing 220,000; and printing, which occupies considerably over 100,000 people, without taking into consideration the bookbinding and other branches connected with it.

"EAST BEHIND THE WEST.

"In the eastern provinces of Germany progress has not been so rapid as in other districts, owing to the lack of coal and iron, but in spite of this rather unfavorable position strong efforts are continually being made to establish industries there. The utilization of the water power of rivers, with which the east is well provided, promises to change the aspect of these hitherto purely agricultural provinces, which will then be able to participate more freely in the timber trades, in brickmaking, papermaking, and the textile trades. The Emperor gave an impetus to the industrial movement of the east by his speech at the opening of the Danzig Technical High School, when he said: 'If the eastern provinces, owing to their position and natural conditions, are less adapted to industrial development than other parts of the Empire, yet technical knowledge will be able to replace in many instances what nature has failed to provide.'

"GERMAN INVENTIVENESS.

"Germany shares with England and the United States the honor of the lead in inventiveness. It is, however, notable that very few inventions are brought to the front by the working classes. This is, according to people who have studied the subject in various countries, to be traced to the fact that the German artisans work longer hours and so have less time to devote to exercising their inventive genius. In technical inventions Germany is well to the front. To take one branch alone, in one year no fewer than 1,500 patents were applied for in Germany for inventions connected with electricity.

"It is not only in the systematic organization of their industries that the Germans have made great progress, but also in the way of bringing their wares to market.

"THE COMMERCIAL GERMAN.

"The commercial German is among the leaders of his kind. He is more to be thanked for Germany's prosperity than is the industrial, for he has gone all over the world and sought markets for the goods. He finds no trouble too great when he is seeking openings for trade. He learns the languages, customs, and coinage of the various countries, and by placing his goods before the foreigners in their own language and figures he often secures orders where others fail.

"Two small examples of the German readiness to meet the wishes of customers: The egg cups imported into India at one time all came from Great Britain. The Indian eggs are, however, very small, and the egg cups did not fill. A German traveler noticed this small item and got his firm to make smaller egg cups and export them there. All the trade is now in German hands.

"In Africa the scissors imported from Sheffield were found to be rather dangerous weapons to place in the hands of the natives owing to their sharp points. The Solingen Steel Works sent a lot of round-pointed scissors out, which found favor, and now Germany has captured the whole market.

Respectfully,

"THOMAS O. MARVIN."

WASHINGTON, D. C., January 30, 1913.

HON. OSCAR W. UNDERWOOD,

Ways and Means Committee, Washington, D. C.

SIR: Possibly you may have noticed that a large number of men fail to respond when their names are called at the hearings. Several of them have told me that they were influenced in so doing by what they gathered as to the intentions of the committee. Your statements to the effect that the committee must look solely to the revenue needs of the Government, and that you purpose to establish a competitive tariff have been quoted frequently by the men who have withdrawn from the program because as as they said, "What is the use if their mind is already made up?"

I regret that the men seemed to feel that the presentation of the facts and arguments as they understand them is of no avail. Personally, I can not see how the statements made by so many manufacturers in regard to the danger of foreign competition should fail to impress any body of earnest men. The testimony in relation to your hat, given last evening, illuminates the whole situation. Here was an article landed in this country duty paid for \$1.10. You paid \$5 for it. No reduction in the duty will affect that retail price. Should the hat be landed here for \$0.90 or \$1 the smiling clerk in the retail store would ask you \$5 for it. The clamor against the manufacturers is wholly unfounded, and the claims of bringing about a reduction in the cost of living by reducing the tariff are equally wide of the mark. A reduction of the tariff will bring more foreign competition, and the impossibility of restricting that competition within what the chairman calls "reasonable" limits is more apparent to the manufacturers than it seems to be to the committee. A duty low enough to let in 10 per cent of the foreign-made goods pressing for sale in the export market will let in all that is available for our market. It is as impossible to stop the importation at a reasonable amount as it would be to stop the inflow of the ocean if the dikes of Holland, which hold the sea in reasonable control, were removed. We have prospered under a tariff policy which restricts importations. That prosperity will be seriously affected by a tariff policy which encourages importations.

The leading wool manufacturing countries of Europe had, in 1907, a surplus for export amounting in value to \$309,000,000. Our total production of the manufactures of wool, for the corresponding period, would be less than \$400,000,000. With a "competitive tariff" which is low enough to allow the importation of foreign-made woolen goods, how it is possible to prevent the importation of the entire European surplus suitable for our market? A duty low enough to allow part of the European exports to enter our market will let in all that is available for export. The American manufacturer does not need to lose 100 per cent of his business to close his mill. If he loses 25 per cent or 50 per cent he can not run his mill at a profit, and is as inevitably forced to close as though he lost all his business.

The exigencies of the Government never have required and never should require the destruction of American industries in order that revenue may be raised on goods, wares, and merchandise imported from foreign countries.

Permit me to assure the chairman that only the kindest comments have been made on his conduct of the hearings. By his fairness, courtesy, and patience he has added to his large circle of admirers.

Respectfully,

THOMAS O. MARVIN,
Secretary Home Market Club, Boston.

The Chairman and Members of the Ways and Means Committee:

A special commissioner of the United States who spent a year in Europe reports as a result of his investigations that the sale abroad of American products at a lower price than at home is very rarely the case. After repeated inquiries among foreign jobbers and retailers, he learned that the American wholesale price plus the freight, duty, if any, other expenses, and a small profit established the selling price to the consumer. The American manufacturer does not obtain, as a rule, large profits on his export business. Foreign trade extension is a tedious and expensive undertaking and a foreign market for our goods is obtained, he declared, not because our goods are sold more cheaply, but because they are better than similar articles of European make, or are novelties, or appeal to a special class of consumers.

Our manufacturers, protected in their home market by a reasonable tariff on imports, have succeeded in building up a foreign trade which now amounts to over a billion dollars annually in value of products sold. And this has been accomplished because of the superior quality of our goods, quick deliveries, and better selling methods. For these reasons the price of our goods in foreign markets has been maintained on the same level as at home and only a small percentage of our exports is sold abroad at a lower price than they are here.

The report of the industrial commission contained a tabulation of 416 replies to the question of selling abroad at a lower price than at home. A great majority of the answers showed that prices are no lower abroad than they are for domestic consumers, and a considerable number indicate that they are higher. In cases where a portion of the goods were sold abroad lower than at home the following reasons were given:

"Cash payments and large purchases in the foreign trade, whereas the domestic trade is based on credits and small purchases."

"The drawback or rebate of the tariff on imported raw material of goods manufactured for export."

"To overcome the tariff of other countries."

"To secure new markets."

"To hold a market against new competitors."

"To clear out surplus stock or to prevent a shutdown and increased cost of production, by keeping mills running and men employed."

"To get rid of samples and out-of-date goods."

"Because the expense of selling and advertising is less abroad than at home."

SELLING EXPENSES LESS ABROAD.

The fact that the expense of selling and advertising is much less in foreign countries than it is here has an important bearing on the price at which goods reach the consumer. In Great Britain and throughout Europe a great deal of the retail business is carried on in buildings which are both the store and the home of the merchant and the conduct of the business is a family affair, clerk hire and other expenses being reduced to a minimum. Rents are cheap and a small profit suffices. Many of the normal and legitimate expenses of American stores are eliminated and all the processes of distribution are carried on much cheaper than in this country.

The recent report of the tariff board on cotton manufactures gives some interesting illustrations of the difference in the cost of distribution in England and the United States. The report shows that the price at American mills of many of the coarser grades of cotton goods is as low as or lower than the mill price in England, yet the retail price is much higher in this country than in England. Thus one fabric which sells at the mills in the United States at $8\frac{1}{2}$ cents a yard will be jobbed at 11 cents and sold at retail at 15 cents. The identical fabric in England would sell at the mill for the same price, $8\frac{1}{2}$ cents, be jobbed at $9\frac{1}{2}$ cents, and retail at $13\frac{1}{2}$ cents. A fabric selling at our mills at 12 cents would be jobbed at $16\frac{1}{2}$ cents and reach the consumer at 25 cents. The same fabric with the same mill price in England would be jobbed at 14 cents and reach the consumer at 19 cents.

The mill price is the same in both countries, but because of higher costs of distribution, larger salaries to clerks, more expensive advertising, larger rents, and a wider margin of profit, goods, the manufacturer's price of which is the same, reach the consumer here at a higher price than they do abroad. And some people foolishly blame the manufacturer for "the high cost of living."

A retail store in London might purchase from an American mill these cotton fabrics which sell at our mills as low as they do in England, and, because of cheap trans-Atlantic freight and low cost of distribution, offer these goods for sale on its counters several cents a yard cheaper than they can be bought for here; but that proves that the retailer abroad is satisfied with less profit, not that our manufacturers sell their goods for a less price to foreign than they do to domestic customers.

ONLY A SMALL PER CENT SOLD ABROAD.

In 1909 the products of our mills and factories were valued at \$20,672,000,000. Our exports of manufactures that year amounted in value to \$671,416,000. In other words, 96.8 per cent of our manufactured products was sold to the American people, in the American market, the greatest market in the world, and only 3.2 per cent was sold in foreign countries.

Hon. James T. McCleary, while a member of Congress from Minnesota, related some of his experiences abroad while investigating the claim that our goods are sold there at a lower price than at home. He said: "Practically without exception I found the prices of American goods higher everywhere in Europe than in the United States." In Scotland he found a McCormick binder offered for sale for \$95. A new McCormick binder was selling in Minnesota at that time at about \$120. On investigation he found that the binder was of a model then 4 years old in the United States and that it could be bought in Minnesota for \$85.

This incident is typical of many such instances where it is claimed that our products are sold abroad more cheaply than at home. Either the article is unsalable here

even at the price asked abroad; it is part of a remnant or bargain sale; it is surplus product dumped abroad, a custom practiced by all manufacturing countries, whether with a high tariff or no tariff; it is a consignment of goods at cost or sometimes even below cost in an effort to win a footing in a foreign market against keen competition, or the reported transaction is an isolated and infrequent one or a gross exaggeration, misstatement, or imposture.

It is a credit to our manufacturers that they are able to supply the needs of the home market at reasonable prices and have begun to invade foreign countries with goods "made in America" and the policy which enables them to do this should be conserved and not destroyed.

Respectfully,

THOMAS O. MARVIN,
Secretary Home Market Club, Boston.

A PLEA FOR THE ULTIMATE CONSUMER.

JANUARY 15, 1913.

OSCAR W. UNDERWOOD,

*Chairman Committee on Ways and Means,
Washington, D. C.*

GENTLEMEN: No day having been set apart by your committee during the current tariff hearings for the case of the ultimate consumer—who has a general and vital interest in all that is to be done as a result of these hearings—the accompanying schedule has been prepared in the interests of the said ultimate consumer. This schedule represents a painstaking attempt to find out the amount which each one is taxed annually because of the existence of the protective tariff system. The customs duties on imports are only a very small part of the total tax on the consumer, by far the largest part of this tax going into the pockets of the producers as a Government bounty.

The approximate result as nearly as the writer can arrive at it with the limited data at his command shows that the average family man with five to provide for is taxed by our protective tariff system about \$248 annually, and that only \$17 of this goes into the United States Treasury, whereas a man with ten to provide for is taxed \$496 annually, of which only \$34 goes to the Government. A critical examination of the accompanying schedule will show that these results are exceedingly conservative minimizing rather than exaggerating the effects of the system. It is time to register a protest against such a system of taxation, and to demand a reduction of this tax to the amount which is taken for the support of the Government only.

To explain how this result is arrived at let us refer to the left hand vertical column of the schedule which contains a list of seven of the principal staples of trade. These are (1) cereals (including corn, oats, rice, and wheat only), (2) manufactures of cotton, (3) hay, (4) manufactures of iron and steel, (5) manufactures of silk, (6) sugar, (7) manufactures of wool, for all of which the total annual value consumed in the United States is about \$7,128,257,864, as is shown in the column marked "I" of the schedule. The portion of this consumption which is imported from foreign countries is given in the column marked "II" of the schedule, and these are foreign valuations to which the amount collected by the Government, shown in column III, must be added. Column IV shows the average ad valorem rate of duty collected by the Government in each case.

The items in Column V are made up in two different ways, some in one way and some in the other. The first item, for instance, is made up by multiplying the different quantities of cereals consumed in the United States by the tariff rate in each case, the result representing the advantage which is given to the domestic producer in meeting the foreigner. Items 3 and 6 of this column are made up in the same way. Items 2, 4, 5, and 7 are made up by dividing the total consumption values in Column I in the ratio that the duties paid to the Government bear to the sum of said duties and the foreign valuation given in Column II. In other words, if items 2, 4, 5, and 7 of Column V be subtracted from the corresponding items in Column I, they will be found to be in each instance the same percentage of this remainder as is indicated in Column IV. The total, then, of Column V is the excess which the people of the United States pay out annually for these seven items on account of the protective system, and amounts to \$2,051,974,544. Each item in Column V divided by 92,000,000 will give the corresponding item in Column VI, which represents the total paid out per capita of population for these seven items. The portion of each item in Column V which goes to support the Government is given by Column III, and its percentage is in Column VII. The percentage of V which goes into the pockets of the protected producer is given in Column VIII. The corresponding items in Columns VII and VIII should, when added together, make 100 per cent.

If by the adoption of a balanced tariff and excise law which permitted the Government to collect the same rate of tax on the total consumption of the article in question, whether it be produced at home or be imported, the ad valorem rate of tax would then be as given in Column IX instead of the present existing rate as given in Column IV. This would permit a saving to the people, as shown by Column X, amounting for the seven items to \$1,911,148,473 without making any reduction in the Government's income. Per capita of 92,000,000 population the saving would amount to \$20.81, as shown by the figures in Column XI, and the actual amount of the per capita tax would then be the small sum indicated by the figures in Column XII, having a total of \$1.51.

That the items selected for this illustration are the most important ones affected by our tariff system is shown by their character and also by the sum which the Government collects on them. The total collected by the Government on these seven items is \$140,826,071 annually, whereas the total collected on all merchandise is only \$309,965,692. That is, these seven items furnish about 45 per cent of the total collected by the Government on merchandise under our protective system. The amount paid out by the individual on account of the system, as given in column VI, is consequently only about 45 per cent of his total, which would make the total individual tax under the present system \$49.60. Of this there would be saved under a balanced tariff and excise system \$46.20 (which now goes into the pockets of the domestic producers and manufacturers), and the individual tax would be only \$3.40 annually to maintain the Government's income, just the same as it is now.

This means that the total saving to the American people under a balanced tariff and excise system would be \$4,246,996,600 annually, and that the people are now handing up this stupendous sum to the beneficiaries of the present system in return for nothing whatsoever.

Lest it should be argued that our domestic prices do not warrant the assumption above made that the ultimate consumer is paying a price for everything he buys, which is higher than the foreign price by the amount of the tariff, there is appended to the accompanying schedule a list of some of these prices affecting the principal staples of consumption, compiled from data for 1909, 1910, and 1911, which are the latest years for which the figures are available. It should be remembered that with those commodities which we export heavily, as corn and wheat, prices fluctuate with the world's market and with the ratio of our supply in any one year to that market. For this reason it is necessary to observe averages.

For the three years 1909, 1910, and 1911 the average foreign price of corn or maize was 69.1 cents per bushel, and the domestic price to the consumer was 92 cents. The rate of duty by our present tariff law is 15 cents a bushel, which, added to the foreign price, would make the price of imported corn only 84.1 cents as against 92 cents which the consumer was paying. If Indian corn were not such a distinctively American product, this difference in prices would probably result in greater importations were it not for the control exercised over the American market by the combinations of middlemen in the grain and commission business.

During the same three years the average foreign price of oats was 39.5 cents per bushel and the domestic price to the consumer was 48.5 cents. The rate of duty is 15 cents a bushel, which, added to the foreign price, would make it 54.5 cents a bushel. This is enough above the domestic price of 48.5, so that the imports in this commodity do not amount to much.

The foreign price of rice averaged for the same period 2.69 cents a pound, and the domestic price to the consumer was 4.62. The tariff rate of 2 cents being added to the foreign price would make it 4.69, so that the domestic price is seen to be just enough under the foreign to take full advantage of the protection offered, but at the same time to keep imports down to a minimum.

For the same period the average foreign price of wheat was 91.6 cents a bushel, and, the duty being 25 cents per bushel, this would make the domestic price of imported wheat \$1.166. Domestic wheat was offered to the consumer at an average of \$1.11 per bushel, which again is seen to be just enough under the importer's price to compete with it and yet to take full advantage of the protection offered.

It will be observed further by consulting the list of prices that the domestic producer—that is, the American farmer—received for his corn an average price of only 55.9 cents a bushel, which was 13.2 cents under the foreign price. Of course, if the farmer were to get the benefit of the duty on corn he should be receiving as much for his corn as the foreign price plus the duty paid to the Government, but not only was this not the case during the three years mentioned, but the farmer was getting 36.1 less than the consumer was paying. In other words, the consumer was paying for his corn 33 per cent more than the foreign price, and 65 per cent more than the American farmer was getting.

In the case of oats it will be noted that the farmer received only 39.9 cents a bushel, which was about the same as the foreigner's price, 39.5.

In the case of rice, the farmer was getting an average price of 2.73, which was practically the same again as the foreigner was getting—namely, 2.69. And in the case of wheat, the farmer received 91.5 cents as compared with the foreign price of 91.6.

In no one of these cases can it be said that the American farmer is getting any benefit from the protective feature of our tariff system, but that whatever advantage was to be had from the system was absorbed by the middleman. It is true that the middleman should be allowed something for his work and for the expense of transportation, but for the commodities mentioned he would be well repaid both for his services and the cost of transportation with a remuneration of 5 per cent on the domestic producer's price, instead of the 21 per cent he now gets in the cases of wheat and oats, the 60 per cent he gets in the case of corn, and the 70 per cent he gets in the case of rice.

The foreign price of potatoes was for the same period 80.9 cents per bushel, which is seen to be below the consumer's price of \$1.05 by just about the amount of the tariff, 25 cents. But the American farmer who gets only 63.2 cents a bushel is very far from being the beneficiary of the tariff rate which was imposed to protect him. The truth is in all these and in many other instances that the wrong man is being protected, and there is no way to prevent it except by changing the system.

Again it will be noted that the foreign price of hay averaged \$8.23 per ton for the period under examination, and the ultimate consumer was paying \$19. The tariff rate is \$4 per ton, which added to the foreign price would make it \$12.23. In this case the farmer gets an average of \$12.51 per ton, which gives him the full benefit of the protection as intended; but there is the same wide discrepancy between the price paid to the farmer and the price paid by the ultimate consumer, which is unreasonably excessive.

In the case of sugar there is some excuse for the middleman, as he not only distributes the product but refines it. Practically all the sugar imported into this country is known as raw sugar. The average foreign price for this was for the period mentioned 2.45 cents a pound, and the average duty collected is about 1.3 cents, which added to the foreign price makes the domestic price of imported raw sugar 3.75 cents per pound. The domestic producer received an average of 3.79 cents per pound, which gives him the full benefit of the protection as intended, but the refiner adds on 1.23 cents more for the cost of refining and distribution, making the price to the ultimate consumer 5.02 cents. In this case the domestic sugar planters do really get the protection they were meant to have, but the refiners have so combined and dominated the market that they can and do "tax the traffic for all it will bear." If a balanced tariff and excise duty were placed on sugar there would be some inducement for the foreigner to send us refined sugar, which he could and would do at a price very much less than the trust now compels us to pay. Why is not the ultimate consumer of more consequence to the welfare and prosperity of the country than the Louisiana planter, and therefore why should not this be done?

Column III of the main schedule shows that the Government collects comparatively little income from cereals and hay, and yet the very existence of the tariff on these items compels the consumer to pay an excess price to the domestic producer or the middleman amounting to 66 per cent and 50 per cent, respectively. The same income could be collected for the Government by taxing the total consumption of these items at the rates of seven one-hundredths per cent and four one-hundredths per cent, respectively (as shown in Column IX), which tax would amount to 1 cent per capita in each case (as shown in Column XII) instead of \$7.82 per capita and \$2.66 per capita, respectively (as shown in Column VI). On items where the rate is so small it would seem wise to remove the tariff entirely and to levy the amount of income thereby lost to the Government on some other commodity which is already returning a substantial income. The cost of collecting these taxes will be much less if collections are concentrated on a comparatively few items or commodities than if they are scattered over many. By adopting a balanced tariff and excise system it will make no difference to the domestic producers whether their particular commodity is one to bear a tax or not, since all will be on the same footing with regard to competition with the foreigner.

This whole question is practically summed up in the last two columns of the Schedule, XI and XII. Each individual consumer is paying annually for the support of the Government the amounts opposite each item in Column XII, and is further taxed to provide a bounty for certain domestic manufacturers or producers the amounts opposite each item in column XI. Because the Government collects 1 cent per capita on the importation of cereals our grain and commission merchants are enabled to collect for their own pockets \$7.81 per capita; because the Government collects 39 cents on the importation of manufactured cotton goods the baron manufacturers in this line (who now hold in reserve an average of surplus 63 per cent on their total capi-

talization) are enabled to collect for their own pockets a bounty of \$2.43; because the Government collects 1 cent per capita on the annual importation of hay, our farmers and those who handle the product are thereby enabled to divide a bounty of \$2.65; because the Government collects 13 cents per capita on the annual importations of steel and iron manufactures, our captains of these industries are thereby enabled to collect for their own pockets \$4.05; and because the Government collects 22 cents on the annual importations of manufactured woollens, the domestic manufacturers in this line are enabled to collect for themselves \$2.60 per capita of the population.

Will anybody dare say, after the recent revelations of conditions existing in the cotton and textile industries of this country, that the workers themselves receive even the remotest benefit from the tariff schedules designed to uplift them? In fact, is there one single industry in this country, or any country, where workmen are voluntarily paid one penny more wages than their employers are compelled by one means or another to give them? Does anybody at this late date cherish the delusion that, because a protective tariff permits protected industries to pay higher wages than are paid in industries that are not protected, or where there is no tariff, the captains of these protected industries are voluntarily doing it?

But the actual situation of the ultimate consumer is much worse than is here indicated, because of the opportunity for combination which the protective system affords. The prices he pays are in most instances considerably higher than the foreign prices with the duty added. Everybody is familiar with cases in the steel industry, the machinery business, the typewriter trade, the clock and watch business, the beef trade, the hog trade, the oil trade, and many others where the American manufacturer or producer is plying a highly remunerative trade by selling his product to the foreigner in a foreign country at a price much below that which he charges his own neighbor. It is not for us to blame these individuals for taking advantage of their opportunity to control the domestic market. The ultimate consumer has no grievance against the protected manufacturer or producer—his complaint is against the system. Our Government led the way by eliminating foreign competition, and the monopolist is merely following along the same path in trying to eliminate domestic competition also.

The time has come to change the system.

Very respectfully, yours,

WM. W. CREHORE,
30 Church Street, New York City.

A PLEA FOR THE ULTIMATE CONSUMER.

Schedule—

	I.	II.	III.	IV.	V.	VI.	VII.	VIII.	IX.	X.	XI.	XII.
	The total annual consumption in the United States is valued at—	Of which there is imported an amount valued at—	On which imports the United States Government collects customs duties amounting to—	At an average ad valorem rate of—	But because of these duties the increase which the people of the United States pay out for the total annual consumption in excess of the foreign price amounts to—	Which per capita of population amounts to 92,000,000. V.	Of which the percentage that goes to the Government is III V.	A and the percentage which goes to the domestic producer 100—VII.	To provide the same revenue for the Government the ad valorem tax rate under a balanced tariff and ex-cise law would be only III I—III.	And thus the saving to the people of the United States would be V—III.	Which per capita of population would amount to X 92,000,000.	And the total tax per capita would then be only VI—XI.
1. Cereals, including corn, oats, rice, and wheat only.....	\$2,878,572,348	\$2,852,978	\$1,888,180	66.2	\$719,275,395	\$7.82	0.3	99.7	0.07	\$717,387,215	\$7.81	\$0.01
2. Manufactures of cotton.....	721,951,315	64,270,882	36,806,882	55.71	258,270,515	2.82	13.8	86.2	5.2	222,463,633	2.43	.39
3. Hay.....	1,089,346,922	775,916	387,316	50	244,299,316	2.66	.17	99.83	.04	243,912,000	2.65	.01
4. Manufactures of iron and steel.....	1,237,893,917	27,500,000	12,375,288	45	384,174,017	4.18	3.2	96.8	1.00	371,798,731	4.05	.13
5. Manufactures of silk.....	256,219,326	31,965,625	16,792,244	53.5	89,301,326	.97	18.8	81.2	7.04	72,509,082	.79	.18
6. Sugar.....	385,654,800	97,872,117	52,804,199	53.95	96,781,939	1.05	54.7	45.3	16.0	43,977,740	.48	.57
7. Manufactures of wool.....	548,619,036	28,049,645	20,771,964	90.12	259,872,036	2.82	8.0	92.0	3.9	239,100,072	2.60	.22
Total for 7 items.....	7,128,257,864	248,287,173	140,876,071	56.5	2,051,974,544	22.32	6.8	93.2	.....	1,911,148,473	20.81	1.51
Total for all dutiable merchandise.....	.....	750,253,596	309,965,692	41.2	4,556,962,292	49.60	6.8	93.2	.....	4,246,996,600	46.20	.....
Total effect on the people.....	.....	.....	.....	.....	4,556,962,292	49.60	.....	.....	.....	.....	.....	3.40

Of—

Comparison of prices.

	Foreign price.	Consumer's price.	Producer's price.
Corn, per bushel.....	\$0.691	\$0.92	\$0.559
Oats, per bushel.....	.395	.485	.399
Rice, per pound.....	.0289	.0462	.0273
Wheat, per bushel.....	.916	1.11	.915
Hay, per ton.....	8.23	19.00	12.51
Potatoes, per bushel.....	.809	1.05	.633
Sugar, per pound.....	.0245	.0502	.0379

Submitted by

JANUARY 15, 1913.

WM. W. CREHORE, 80 Church Street, New York City.

HOME CONDITIONS IN NEW YORK CITY.

NEW YORK, January 30, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.

DEAR SIR: The East Side Club of the city of New York, organized for the purpose of improving the condition of the residents of that portion of the city known as the "East Side"—which comprises the territory below Fourteenth Street and east of the Bowery—numbering approximately 1,000,000, desires to present the following facts to your honorable body:

Nowhere in the world is there a more industrious, energetic, and frugal body of people, yet, in spite of the fact that they are mainly employed in protected industries, their wages are meager and fall far below the amount necessary for their proper support, and in consequence many of them are badly housed and poorly clothed, a fact plainly visible to anyone who may take a walk through the district; and the records of the philanthropic societies which care for many of them will prove that they are inadequately fed.

That our brief may be concise we have confined our evidence to but two of the trades in which the residents of the district are engaged—the garment makers, numbering some 50,000, and the shirt-waist makers, numbering about 35,000—and below is a table showing rates of wages, number of hours employed per day, and number of months employed per year.

GARMENT MAKERS.

	Wages per week.	Hours per day.	Months per year.
Cutters.....	\$18-\$25	10	7
Machine operators.....	10- 15	10	7
Pressers.....	10- 15	10	7
Buttonhole makers.....	10- 15	10	7
Finishers (girls).....	6- 10	10	7

In many shops the hours are 14 per day during the busy season.

SHIRT-WAIST MAKERS.

Cutters.....	\$15	10	8
Machine operators.....	10	10	8
Buttonhole makers (men).....	11	10	8
Finishers (girls).....	6	10	8
Pressers (girls).....	8	10	8

Nonunion shops work 11½ hours per day, and wages are not so high in shirt-waist trade.

We desire to particularly call the attention of the committee to the fact that the periods of employment in these trades are but 7 and 8 months, respectively, per year, and that during the period of nonemployment the operatives are unable to obtain work in other vocations, and, consequently, at the beginning of each working season, they have a burden of debt which takes the greater portion of the employed season to pay off.

HOUSING CONDITIONS.

While there are various causes for the high rents which are charged in the district, many of which would not be removed by a reduction of the tariff, nevertheless we subjoin a statement to show your honorable body the degree that the tariff on building materials increases the cost of housing.

The houses of this district are mainly of the tenement variety four, five, and six stories high, and subdivided for the use of many families—frequently families of 5 to 10 persons are crowded in 3 or 4 rooms. Most of them were built before the present law went into effect, and are entirely unfit for human occupancy. They are without proper ventilation, contain many dark interior rooms, and have not the sanitary arrangements necessary to preserve health. For apartments in this class of houses tenants are required to pay rents entirely beyond their means, and which in many cases compel them to take boarders, and thus further crowd themselves in accommodations which are insufficient for their own families. The scale of rents

quoted below for apartments described above is the result of a careful investigation made during the present year.

Location.	Floor.	No. of apartment.	Number of rooms per apartment.	Rent.	Number in family.	Lodgers.
E. Houston Street.....	5	.....	4	\$18	11	.....
Do.....	4	.....	4	19	9	.....
Forsyth Street.....	.....	20	4	17	10	.....
Do.....	.....	9	2	8	8	.....
Chrystie Street.....	.....	11	2	11	4	.....
Forsyth Street.....	.....	24	4	16	7	2
Chrystie Street.....	2	.....	3	15	8	.....
Do.....	.....	19	4	18	2	5
Do.....	5	.....	3	10	4	.....
Do.....	.....	18	4	19	7	.....
Do.....	.....	14	2	10	3	.....
Do.....	.....	15	2	12	4	.....

For the purpose of illustrating how the cost of housing accommodations in this district is increased by the tariff, we beg to submit the following figures obtained from a reliable builder: A house 37 feet 6 inches by 88 feet, five stories high and arranged for four families on a floor, and which would be built in compliance with the conditions of the present law would cost, exclusive of the land, about \$28,000. Of this amount the materials would cost, approximately, \$18,000. A very conservative estimate of the duty on \$18,000 of building material, if purchased abroad would be \$3,000; or we may say that if \$18,000 of domestic material were used, its price would be \$1,500 less if no duties were imposed on foreign goods. Thus, the result of the tariff is to increase the cost of the house \$1,500, on which \$1,500 rental must be collected from the tenants. It also compels the payment annually of a city tax of \$27.45, which at the present tax rate in this city is the rate on \$1,500. This increased cost of \$1,500 must be insured, both of which charges are finally paid by the tenant. If building materials were on the free list, not only would the original \$1,500 be saved, but also the amount of the taxes and insurance on this increased cost, which must be paid as long as the building lasts.

THE BUREAU OF LABOR OF THE DEPARTMENT OF COMMERCE AND LABOR.

In Bulletin No. 108 (H. Doc. No. 925, 62d Cong., 2d sess.) of the Bureau of Labor of the Department of Commerce and Labor, page 14, is a table showing the relative prices of 15 articles of food. This table shows an increase in prices since 1890 of 51 per cent, and that 13 per cent of this increase has taken place from January, 1911, to August, 1912. When it is borne in mind that persons of limited means are compelled to purchase their household supplies in very small quantities, and are therefore, compelled to pay much higher prices than when larger purchases are made, it is self-evident that the great increase in price that has taken place bears with very great severity on wage earners and all people of limited means.

We therefore respectfully ask that all foodstuffs and all materials that enter into the construction of houses be placed upon the free list in order that the working people and those dependent on them be relieved of the unnecessary burdens which the present tariff imposes upon them.

OSCAR LUSTGARTEN,
President East Side Club.

We beg to annex hereto a printed copy of an address on "The tariff tax on homes," made by Fred Cyrus Leubuscher, in 1905, at the thirteenth annual meeting of the United States League of Local Building and Loan Associations. This paper was subsequently incorporated in a speech of Hon. John Sharp Williams, and appears in full in the Congressional Record. While the figures are predicated on the Dingley tariff, still the arguments are as cogent to-day as they were in 1905:

THE TARIFF TAX ON HOMES.

"You are quite presumptuous," wrote a famous political economist to whom I had applied for data, "to suppose that, in the compass of a short paper, you can fully cover such a subject as the tariff tax on homes." He was correct in his criticism—from his standpoint; for he assumed that I meant to discuss not only the house but

all of its contents—food, clothing, furniture, and bric-a-brac, as well as lumber, brick, stone, and iron. It would not only be presumptuous but it would be impertinent as well for me, as a building association man in a convention of the United States League of Building Associations, to attempt to treat, save incidentally, of anything except the building itself and the materials which enter into the making of it. It would also be impolitic, if I expect to make any impression, for me to arouse political prejudices, as I surely would do if I introduced a discussion of the questions of protection and free trade that are involved in the tariff on food, clothing, and furniture. I distinctly disavow any such intention in this paper. I claim that a discussion of the question of free raw materials that enter so largely into the construction of houses should not shock the most hidebound protectionist, and that he should join with the free trader in the demand for untaxed lumber, untaxed brick, untaxed iron and steel, untaxed cement, untaxed window glass, etc.

The expense of housing is, next to that of food, the principal item entering into the cost of living.

The July, 1904, report of the Bureau of Labor, based upon new estimates for 2,567 families, gives the per cent of expenditures for the principal items entering into the cost of living as follows :

	Per cent.		Per cent.
Food.....	42.54	Charity.....	0.31
Rent.....	12.95	Furniture and utensils.....	3.42
Principal and interest on mortgages on homes.....	1.58	Books and newspapers.....	1.09
Fuel.....	4.19	Amusement and vacation.....	1.60
Lighting.....	1.06	Intoxicating liquors.....	1.62
Clothing.....	14.04	Tobacco.....	1.42
Taxes.....	.75	Sickness and death.....	2.67
Insurance.....	2.73	Other purposes.....	5.87
Labor and other organization fees.....	1.17		
Religious purposes.....	.99	Total.....	100.00

If we lump the per cents of rent, interest on mortgages and taxes, which legitimately belong together, we have a total of 15.28, making it the second largest item in the cost of living.

Rent and building materials should be considered together, because the tariff tax on rent is due to the tariff tax on building materials, which greatly increases the cost of building and repairing houses. Those who buy materials and build their own homes pay their tariff tribute on building materials direct to the scores of protected trusts that "guard our homes as a pack of wolves guards a flock of sheep." Those who rent homes pay their tariff tribute through the landlords, who add enough to the rent bills to cover the tariff cost of constructing the rented homes.

The population of this country probably increased in the year which ended July 1 by over 2,000,000 souls, half of them immigrants, the latter being adults in greater proportion than the native-born population. In order merely to supply shelter for this addition to the population, assigning 5 persons to a group or family, 400,000 dwellings would be required. At an average of only \$1,000 for the cost of a dwelling place of 5 persons, the housing of the increased population would require 400,000 dwelling places at \$1,000 each, or an expenditure of \$400,000,000. In order to meet this demand on the men that must be occupied in cutting timber, on the men in the sawmills, in the carpenters' shops, in the brickyards, in the stone quarries, in the nail factories, etc., and on the men engaged in assembling and putting up the dwellings, 800,000 men must be occupied for one year merely to house the increase of population of a single year. Half this number at least would be employed in the building trades—carpenters, masons, painters, plumbers, and the like. Notwithstanding these stupendous figures the manufacture of homes finds no place in the United States census and there are no data by which the annual cost can be accurately computed. We must therefore get at our figures in another way.

Excluding the lumbermen, the men in the sawmills, in the brickyards, and in the stone quarries, and including only carpenters, masons, painters, plasterers, and plumbers occupied in the building trades, the number in 1900 exceeded 1,200,000—the largest single body occupied in one art outside of agriculture.

It is estimated that the average earnings of these classes is \$2 a day for 300 days in the year, or \$600 a year. Wages are higher in the cities and lower in the country; but taking a general average of \$2 a day for 1,200,000 men their earnings are over \$700,000,000 annually.

As the cost of labor in putting up buildings may be computed in a rough and ready way at 30 per cent of the final cost, the annual value of manufactured buildings in the United States must exceed two thousand million dollars.

The manufacture of dwellings in ratio to the population is diminishing. The population of cities is becoming more and more congested. There is greater and greater difficulty in housing the increasing number. The cost of dwellings, and the

consequent increase of rent, presses harder and harder every year upon persons of moderate and small incomes. There are several reasons for this, and one reason will be found in the taxation of building materials imposed under the present tariff. Nearly every article that enters into the construction of the dwelling house is heavily taxed, at the expense of those who pay rent or who build their own dwellings, for the sole benefit and profit of a very small number belonging to the privileged class who own the timberlands, stone quarries, marble quarries, and deposits of clay, and of the Steel Trust, Window Glass Trust, Plate Glass Trust, and other members of the privileged class who have perverted the power of public taxation to purposes of private gain. In the matter of timber we are deprived of the abundance of Canada while we are denuding our own hills, thus not only taxing the dwellings but destroying the protection of the water supplies of the country. Bricks and stone which we might derive in abundance from the neighboring Dominion are heavily taxed. Marble is heavily taxed, one of the recipients of the bounty being a Senator of the United States. The makers of every kind of household hardware are taxed on their steel, on their tin plates, on their copper, on their zinc, on their lead. The makers of paint are taxed on the materials which form component parts; and so on throughout the list.

It would be almost beyond possibility to trace out the evil of these influences or to compute the increase of cost on each dwelling place. It can not be less than 20 per cent on the cost of every dwelling house, and is more likely to be in excess of 25 per cent than any other figure. In this way the poor are crowded or unhoused. Persons of small incomes are taxed more heavily than any other class in proportion to their income. The whole community is burdened by taxes from which the Government receives little or no revenue, but of which nearly all the proceeds are conveyed into the pockets of the privileged class at whose instance the power of public taxation is perverted to purposes of private gain.

From the most high protectionist standpoint the tariff tax is unnecessary on the mass of building materials. In the United States duties are levied for two ostensible purposes: First, to raise revenue; second, to protect our manufacturers and wage workers against the lower prices of foreign countries which would otherwise undersell them and thus tend to drive them out of business. Are these two purposes subserved by levying the present tariff on building materials? Let us see. The 1900 census values the principal products that enter into the building of houses as follows:

Brick and tile.....	\$51, 270, 476
Carpentering.....	316, 101, 758
Gas and lamp fixtures.....	12, 577, 806
Gas machines and meters.....	4, 392, 730
Glass.....	56, 539, 712
Iron and steel nails and spikes.....	14, 777, 299
Iron and steel pipe.....	21, 292, 043
Iron work—architectural, etc.....	53, 508, 179
Lead, bar, pipe, and sheet.....	7, 477, 824
Lime and cement.....	28, 689, 135
Lumber, planing-mill products.....	168, 343, 003
Mantels, slate and marble.....	1, 153, 540
Marble and stone work.....	85, 101, 591
Masonry, brick and stone.....	203, 593, 634
Oil, linseed.....	27, 184, 331
Painting and paper hanging.....	88, 396, 852
Paints.....	50, 874, 995
Paper hangings.....	10, 663, 209
Plumbers' supplies.....	14, 771, 185
Plumbing, gas, etc., fittings.....	131, 852, 567
Pumps, not steam.....	1, 341, 713
Roofing and roofing materials.....	29, 916, 592
Steam fittings and heating apparatus.....	22, 084, 860
Tin and terne plate.....	31, 892, 011
Tinsmithing, sheet iron working, etc.....	100, 310, 720
Varnish.....	18, 687, 240
Wood, turned and carved.....	14, 338, 503
Total.....	1, 567, 133, 508

These figures were obtained from factories and of course are wholesale prices. I think it is fair to state that at least one-third more is paid by the final consumer after the products have passed through the hands of various middlemen. This brings the figures up to about \$2,100,000,000. Mr. Byron W. Holt, the well-known economist,

has made careful estimates which show that to these figures should be added at least \$200,000,000 for lumber other than planing-mill products, and \$200,000,000 more as the cost of foundry, machine-shop, and blacksmithing products and of structural iron and steel. He also computes the cost of all other materials at \$117,000,000. This makes a grand total of about \$2,600,000,000 as the annual expense bill of the people of the United States for erecting and repairing buildings. Probably from 20 per cent to 30 per cent of this sum is expended on business and public buildings, churches, etc.; making a liberal deduction for these, we find that Uncle Sam's nephews and nieces expend every year almost \$2,000,000,000 (or the wealth of two Rockefellers) with which to protect themselves from wind and weather.

The cost of building materials is now fullt 50 per cent higher than it was eight years ago when the Dingley tariff bill became a law. This is only in slight measure due to higher wages; and it is estimated that the tariff is responsible for most of this increase. According to Moody's Manual most of the trusts have been formed since 1898; and it is only since that date that the lumber and other trusts have fully realized how the tariff enables them to raise prices. There can be no doubt that if the tariff on building material were abolished the prices of lumber, paint, varnish, glass, tin plate, pipe, cement, nails, screws, lead, etc., would be lower than in 1897. If the tariff increases the cost of houses only one-fourth, it adds more than 10 per cent to rent, for the value of houses is on an average probably twice that of the lots on which they stand. Rents in cheap flat houses average annually about 10 per cent of the value of the house and lot. If a man pays \$9 a month rent for an apartment, his part of the house is probably worth \$800 and of the lot on which it stands, \$300; total, \$1,100. Without a tariff, he would pay rent on property worth only \$900 (\$600 for his part of the house and \$300 for his part of the lot) instead of \$1,100, and his rent would not average more than \$8 a month. The low cost of building materials is largely responsible for the very low rents in England.

A large proportion of the rent for homes goes to cover the cost of repairs. These consist largely of lumber, paint, glass, cement, nails, screws, and roofing materials, the cost of nearly all of which is increased 40 or 50 per cent, or more, by the tariff. If the materials for repairs on the average house cost \$15 a year the tariff is responsible for about \$4 or \$5 of this amount. I have, therefore, estimated the tariff cost of those who own and of those who rent homes together. In either case it is the occupants of homes who pay the so-called protective tariff tax of constructing and repairing the homes of this country—unprotected from the protected tariff trusts.

It requires a great deal of calculation to arrive at the average rate of duty under the tariff act of 1897. On some products the duty is imposed according to weight or quantity, on others according to the value, and on still others according to both quantity or weight and value. On Portland cement, for instance, the rate is 8 cents per 100 pounds, and on other cement 20 per cent ad valorem. I have, however, taken the report of the Bureau of Statistics of the Department of Commerce and Labor, and carefully calculated the ratio between the imports for the year ending June 30, 1904, and the duties collected thereon, and I find that the average percentage of duty on the principal materials entering into buildings is as follows:

Brick and tile.....	32
Cement.....	25
Glass.....	68
Iron and steel nails.....	28
Iron and steel pipe.....	36
Lead.....	82
Lime.....	34
Lumber (planing-mill product).....	15
Marble.....	55
Paints (white lead).....	55
Paper hangings.....	25
Stone.....	50
Tin plates.....	33
Varnish.....	97

Now, what justification is there for thus handicapping the poor man in his struggle for a home? Is it revenue? In 1903 less than \$12,000,000 was collected in the custom-houses from duties on building materials, and in making up the list, in order to be perfectly fair, I included materials that are not used in the average building, such as asphaltum, coal tar, oxide of cobalt, iron beams and girders, marble and onyx. So that less than 2 per cent of the Federal revenue is derived from this source—surely not enough to warrant the Government in discouraging the building of homes.

Take the item of cement. I venture to prophesy that the exterior of the humble home of the future will consist of stucco or cement—that is, if the price is cheapened.

Buildings constructed of this material not only present a pleasing appearance but are practically indestructible. During the past 10 years the manufacture of cement has increased at the rate of about 25 per cent per annum. The tariff on the various kinds of cement averages 25 per cent ad valorem, and it is evident that, were it not for this extra charge of one-fourth added to the price, the sales would be largely increased. According to the census bulletin, the United States in 1901 manufactured 20,068,000 barrels of cement, valued at \$15,786,000, or at the rate of 75 cents a barrel. During the same year we imported only 939,330 barrels, valued at \$704,000. The duty paid on this was only about \$175,000. Will 80,000,000 Americans continue to limit their supply of this most necessary building material for the sake of a beggarly \$175,000 of revenue? The hard-headedness of the average Yankee will soon impel him to answer an emphatic "No!" to that question.

Even the most hidebound protectionist must now admit that unless the apologists for a tariff tax on building materials can show that it tends not only to keep men employed who without it would be obliged to seek another livelihood, but also to increase their wages, it should be repealed by the next Congress. Remember that we are not now considering manufactured articles, such as cotton goods, shoes, etc., but what are practically raw materials, for all things used for the building of a house are, in relation to it, raw materials. If the tariff on these were necessary in order to keep men employed at living wages, the majority of the American people would bear it patiently, for they seem wedded to the protectionist idea. The prices they pay, however, should be greater than the European prices for similar goods only in the proportion as American wages are greater than the European. As a matter of fact, the prices charged their fellow countrymen by the trusts which control the principal building materials are many times greater than the difference in wages.

Besides that, if the tariff is necessary in order to maintain what the trusts call the American standard of wages in competition with the pauper wages of Europe, why is it that these same trusts are able to export to those poverty stricken countries, and at a profit, too? Window glass is heavily taxed, and the Census Bulletin of July 3, 1902, states (at p. 42) that exports of this most necessary building material are "steadily increasing." The most important item in the building of homes is the lumber. The tariff tax on lumber makes it practically prohibitory to import anything in this line except mahogany and other woods which are not grown here. The Census Bulletin of June 24, 1902, gives the value of the annual exports of lumber as \$34,340,119, and states that "more than half consisted of boards, deals, planks, joists, scantlings, and shingles." After seeing these official figures, what possible justification can the apologist for the tariff on lumber plead for its retention?

I have thus far shown that the only two reasons that justify a tariff, viz, revenue and protection, do not apply to building materials. The hypocritical pretenses of the building material trusts have been proven, I will now show that they have taken advantage of the situation by not only getting all they can out of their fellow countrymen, but are actually enabled to undersell foreigners on their own territory. They export large quantities of their products and sell them abroad at competitive free-trade prices. This is the fact with the Tin Plate Trust and the Lead Trust, but is more strikingly illustrated with the Steel Trust than with the others. Most kinds of iron and steel sell here for from 50 to 100 per cent above foreign prices.

Careful estimates of the tariff profits of the United States Steel Corporation indicate that they amount to \$162,000,000 for the years 1902 and 1903, the total net profits being \$242,000,000. These estimates were based mainly on the difference between the export and home prices of steel products and goods, the difference being multiplied by the quantity of each kind of product sold, as given in the annual report of this company for the year ending December 31, 1903. This \$162,000,000 is clear tariff profit. That is, had there been no duties on these steel products, and had they been sold here at the same prices for which they were sold abroad, they would have cost our consumers \$162,000,000 less than they did. As nearly all of these are unfinished products, it is evident that American manufacturers, to whom steel is a raw material, have to pay nearly \$80,000,000 a year more for these materials to the United States Steel Co. than is paid by their foreign competitors, even though they buy steel of our Steel Trust. The United States Steel Co. manufactures only two-thirds of our steel; therefore, adding the tariff tax charged by the manufacturers of the other third, we find that Americans are annually charged for American steel \$120,000,000 more than are Englishmen, Germans, Frenchmen, and Russians. This in itself is a great handicap upon our manufacturers, especially when attempting to sell goods in foreign markets. It is this discrimination in favor of foreign manufacturers, making it much cheaper to produce outside of than inside of our tariff wall, that is mainly responsible for the exodus of American capital into foreign countries. Scores of "branch" mills and factories, operated by Americans have, during the past few years, been located

abroad in order to escape from the "protection" that means dearer raw materials and higher cost of production. Had there been no unnecessary duties on raw materials the great amount of business now done in these American-owned foreign mills would be done in this country, to the great advantage of our own workingmen. Of course these manufacturers tack the extra charges on to the final consumers—the builders of homes.

On July 30, 1904, the New York Journal of Commerce and Commercial Bulletin contained the following:

"One of the most interesting features of the steel situation is an important sale of several thousand tons of steel plates for export, the price of £5 delivered at Newcastle-on-Tyne, netting the mills about 90 cents per net ton f. o. b. Pittsburgh. It should be remembered that sales are made in the English market by the gross ton. Allowing \$3.50 freight rates and a slight allowance for insurance, this price would net the mills \$20 gross, or \$1.80 per ton net, or 90 cents per 100, against \$1.60 per 100 for domestic business."

There are nearly 300 export commission houses in New York City. Some of the largest of these publish weekly or monthly export trade journals. These are a mixture of catalogues and price lists and circulate only in foreign countries. They do not usually quote the lowest prices for export. Some of them, and notably the Exporters and Importers' Journal, refer to a special discount sheet, which prints the lowest export prices.

The tariff committee of the New York Reform Club reports that it has been able to obtain copies of several recent export journals, notably (1) The Exporters and Importers' Journal of June 18, 1904, published by Henry W. Peabody, 17 State Street, New York City; (2) The American Export Monthly of June 18, 1904, published by Arkell & Douglas, 5 to 11 Broadway, New York City; (3) The Export World and Herald of July 5, 1904, published by the American Trading Co., Broad Exchange Building, New York City; (4) El Mundo y Heraldo de la Exportacion of June 21, 1904, also published by the American Trading Co.

The report of the tariff committee states:

"While many of the prices quoted from the journals are not the lowest export prices, yet they are often far below the home prices on the articles mentioned. To supplement and corroborate the information derived from these export journals, the tariff committee employed a man who has for 20 years been a buyer of goods for export. Being personally acquainted with the selling agents of many of these exporting manufacturers, he could and did obtain the export catalogues and price lists of most of the manufacturers quoted. Many of these price lists are in the possession of the tariff reform committee. In most cases the manufacturers themselves or their agents have marked their discounts for export on the margins of their catalogues or lists. Sometimes they have also indicated their home discounts in the same way. In other cases the expert who obtained these prices wrote them on the margins of the lists as they were given to him. All of these prices were obtained in June, July, and August, 1904.

"From the information thus obtained the following comparative lists of prices have been prepared. They are not usually bottom prices, because they were not given to a man who had actual orders for goods in hand. Besides, all exporting manufacturers allow a commission to the buyers of goods for export. This commission is seldom or never less than 1 per cent, and is sometimes as high as 5 per cent.

"The home prices are believed to be the lowest for quantities of goods similar to those on which export prices are quoted. They were obtained from manufacturers, from domestic price lists, from market quotations, and from merchants who are buyers for domestic consumption."

The tariff committee then appends a long list of hundreds of articles of merchandise, giving the export price, the home price, and the difference between the two. I have selected only such as come within the purview of my paper, either building materials or tools with which those materials are assembled to make homes:

Articles and description.	Export price.	Home price.	Difference.
			<i>Per cent.</i>
Adzes, carpenters', square handled, 4-inch..... per dozen..	\$9.90	\$11.00	11
Axes and hatchets, Yankee, unhandled, 5 to 7 pounds..... do.....	6 75	7.50	11
Axes and hatchets, Yankee, handled, up to 7 pounds..... do.....	6.30	7.00	11
Axes, turpentine, handled, 4½ to 5½ pounds..... do.....	8.33	9.25	11
Hatchets, carpenters', 4-inch..... do.....	5.85	6.50	11
Lathing No. 2..... do.....	4.50	5.00	11
Bit stocks (auger)..... do.....	12.00	14.40	20
Braces, drill..... do.....	23.09	24.30	6
Braces, carpenters', 14-inch..... do.....	11.42	13.37	17
Brushes, painters':			
A quality No. 2-0..... do.....	3.20	4.00	25
B quality No. 2-0..... do.....	6.30	7.83	25
F quality No. 2-0..... do.....	8.00	10.00	25
Crowbars, steel..... per pound.....	.05	.06	20
Drilling machines, No. 3..... each.....	26.00	30.00	15
Drills:			
Breast, Nos. 10-11..... per dozen..	23.40	27.54	20
Ratchet, 14-inch..... each.....	3.25	3.75	15
Jackscrows, No. 10..... do.....	1.98	2.23	12
Lumber, No. 2 shelving, dressed..... per M.....	33.00	35.00	6
Rope, manila, extra selected..... per pound..	.11	.13	2
Saws:			
Rip, 18-inch, No. 4..... per dozen..	14.18	18.00	27
Hand, 18-inch, No. 6..... do.....	11.81	15.00	27
Bench, 18-inch, No. 4..... do.....	8.87	11.25	27
Buck, 30-inch, No. 104..... do.....	7.00	8.40	20
Shovels:			
D handles, R point, No. 3..... do.....	7.42	8.25	11
A1, No. 2..... do.....	6.25	8.40	33
Spades:			
A1, No. 2..... do.....	6.25	8.40	33
D handle, R point, No. 2..... do.....	6.97	7.75	11
Spirit levels, 26 to 30 inches..... each.....	1.80	2.11	20
Vises, pipe, No. 1..... do.....	1.25	2.00	60
Wrenches, 10-inch screw..... do.....	5.04	5.60	11

My table shows the export and home prices of 32 articles, the latter showing an average of about 18 per cent above the former, though in many instances these exporters charge their fellow Americans from 30 to 60 per cent more than they do their foreign customers.

I have seen a letter from Henry Rossell & Co. (Ltd.), Sheffield, England, large manufacturers and dealers in files and tool steel. This letter says: "As an illustration of the unfair manner in which home buyers in files are treated by the United States manufacturers, I inclose you herewith a comparison of the prices charged to the buyers in the United States with those offered by the same manufacturers here."

Here are some of the prices that appeared on the list:

Comparative prices of American files in America and England.

Articles.	Price per dozen.		Difference.
	England.	United States.	
Flat bastard:			<i>Per cent.</i>
4 inches.....	\$0.34	\$0.92	170
6 inches.....	.50	1.07	114
10 inches.....	1.08	1.75	62
Hand bastard:			
4 inches.....	.38	.92	142
6 inches.....	.62	1.07	73
10 inches.....	1.30	1.87	44
Half-round bastard:			
4 inches.....	.34	1.20	253
6 inches.....	.50	1.52	204
10 inches.....	1.08	2.27	108
Round bastard:			
4 inches.....	.34	.75	121
6 inches.....	.50	.87	74
10 inches.....	1.08	1.40	30
Square bastard:			
4 inches.....	.34	.95	179
6 inches.....	.50	1.15	130
10 inches.....	1.08	1.85	71

From these figures we see that the American File Association, which has not revised its price list to American buyers since November 1, 1899, is charging us for most kinds of its small files more than twice as much as it charges Englishmen for these same files, and for half-round files we must pay them three times the price charged Englishmen.

These figures are rather dry as dust for a summer's day, and I was tempted to omit them and give only the sums total. It is easy, however, to deal in glittering generalities, but not convincing to such an intellectual and earnest audience as the one I am addressing. Building association men, as such, are really bankers and are accustomed to wrestle with financial problems every week in the year. They would, therefore, deem a writer or speaker intellectually lazy and not worthy of serious consideration if he did not fortify his premises and conclusions with facts and figures. This I have done; and I think that I have proven that neither of the only two justifications alleged for a tariff—revenue and protection—apply to the tariff on building materials.

It is only fair to state that the apologists for this tariff claim that the amounts thus exported are very small and constitute only what they term surplus products. Secretary of the Treasury Shaw claims that for the fiscal year ending June 30, 1904, the total exports that were sold abroad at lower prices than in the United States amounted to only \$4,000,000. How he obtained these figures he does not state; but they are easily disproved. Take iron and steel, for example. Our exports of iron and steel goods for the fiscal year ended June 30, 1904, were valued at \$111,948,586. From these exports a half dozen items, each larger than \$4,000,000, and some of them materials that enter into the building of homes, can be picked out, such as wire, \$5,821,921; builders' hardware, \$11,726,191; pipes and fittings, \$6,310,551. If iron and steel alone furnish over a hundred millions, how stupendous must be the totals of all goods exported by the trusts, for which they charge foreigners less than they do their fellow citizens. "But," exclaim the apologists, "there is no proof that any appreciable part of these exports are sold for less than American prices." It is indeed difficult to get at the facts, because it is to the interest of the trust magnates to conceal them. In an unguarded moment, however, President Schwab, of the Steel Trust, testified before the Industrial Commission, on May 11, 1901, as follows:

"Q. Is it a fact generally true of all exporters in this country that they do sell at lower prices in foreign markets than they do in the home markets?—A. That is true; perfectly true."

It would be expanding this paper unduly were I to cite the statistics of exports of building materials other than steel and iron; but as the president of the chief offender, the Steel Trust, admits that all exports are sold at lower prices in foreign markets, my point can be considered as well taken.

Only one refuge is left for our apologists, and they have all fled to it; and that is the claim that these foreign sales are made either at cost or at an actual loss. And why do these philanthropists, the trusts, sell goods at a loss? Simply in order to keep the workmen busy, so that they will not lose their wages. The argument presupposes that the 80,000,000 inhabitants of this country are too poor to keep the mills and factories at work all the time and that the trusts love the dear people so much that they take money out of their own pockets in order to give them steady work. The exports of the United States for the year ending June 30, 1904, are valued by the Government at \$452,000,000. As all of these, according to Mr. Schwab, were sold at a lower price than the goods sold in the home market, the trusts would have the American people believe that they deliberately lost money on almost a half billion of exports solely for sweet charity's sake. A trust has been defined as an entity with neither a body to be kicked nor a soul to be damned. If, however, we are to believe these apologists, they are all soul and the sublimest personifications of altruism this world has ever seen.

Apart from the inherent improbability of this claim are the facts, so far as we can gather them. Mr. Schwab claimed before the Industrial Commission that the United States Steel Co. lost money on its exports. Mr. Carnegie, whose colossal fortune was made out of steel (spelled with two e's) admits that steel rails, for instance, which cost Americans \$28 per ton and Europeans \$22, can be sold at a profit at \$12. If that be true of rails, it is undoubtedly true of other steel products. I feel convinced that investigation will demonstrate that on all exports of building materials a profit is made.

Protectionists should therefore join forces with free-traders in demanding the repeal of the tariff tax on building materials as not only utterly unnecessary from the protectionist standpoint, but as a handicap on Americans in their struggle for supremacy in the race of civilization. Remove this tax, and the demand for masons, carpenters, and housebuilders generally will be so great that wages will rise, and thus enable the mechanics in their turn to become home-owners. Remove this tax and in a few years the number of homes will be doubled. Remove this tax, and the pressure of population in the tenement-house districts will be lessened, while little cottages will multiply in the suburbs. Remove this tax, and tens of thousands of little pallid children, instead of dying amid the stench of the tenements, will grow to sturdy manhood and sweet womanhood in God's country.

"The American home, the safeguard of American liberty," the motto of the United States League of Local Building and Loan Associations, demands that we, above all, should join in the movement to strike the shackles from the home-building industries. Indeed we should be the leaders, for it was to increase the number of American homes that building associations came into existence. Our cooperative thrift movement seeks to depopulate the tenements, those pestilential breeding spots that may some day hatch out the demons that will subvert our liberties.

The late Jay Gould testified before an investigating committee that he was a Republican in Republican counties, a Democrat in Democratic counties, but always an Erie man. I think that it will be profitable to take a leaf from the book of experience of the monopolists, for they are among the ablest men in the country. Why should we allow our political prejudices to stand in the way of accomplishing an object that is near to the hearts of all of us? Some of us are Republicans, some of us are Democrats, some are protectionists, some are free-traders, but all of us are building association men. Let us forget that we are partisans of this party or that, but let us remember that we are partisans of a deep-seated purpose, and that that purpose is the upbuilding of the American home.

COST OF LIVING.

ANGLO-AMERICAN CO.,
Portland, Oreg., February 5, 1913.

HON. O. W. UNDERWOOD,
House of Representatives, Washington, D. C.

DEAR SIR: As the prosperity of the country depends on the earning capacity of its people, and this in a measure upon its productions, import and export trade, and cost of living, I take the liberty to emphasize what is current knowledge to thinkers and writers—that the cost of living is an important factor in universal prosperity.

The high cost of living is fostered by trusts and combines, which, in turn, are fostered by the tariff. Therefore I believe it will be a popular measure, one which will save millions of dollars to our people, if food products of every description are placed on the free list.

With our unbounded resources in soil, water, and climate, knowledge of agriculture, both scientific and practical, we have no reason to fear competition; also the more our

tariff is simplified the less will be the cost of collection of revenues, thereby reducing this tax upon the people.

The foods of the majority of our people, next to wheat, flour, corn, and oatmeal, which need no protection, are beans, peas, potatoes, and similar vegetables common to the universal table, and should there be a deficiency in our own crops these can best be supplied from abroad if on the free list, thus keeping the cost of living at a minimum.

I would also strongly urge that all kinds of cattle foods and all burning fuel for house, manufacturing, and ships' use be placed on the free list.

Yours, very respectfully,

T. O. HAGUE.

DARBY, MONT., *February 4, 1913.*

The COMMITTEE ON WAYS AND MEANS,
Washington, D. C.

GENTLEMEN: I understand you ask for suggestions on tariff reform. I beg leave to submit the following:

(1) Abolition of all duties on foodstuffs, especially meats, to reduce the high cost of living, for it is becoming unbearable to the mass of the people.

(2) An export duty on all foodstuffs shipped out of the country. Let us take care of our own people.

(3) Let us have an import duty of \$300 per person on every foreign immigrant that lands in this country.

It is absolutely unfair to American labor to give protection to the manufacturers of this country and then let the cheapest labor of the world come here at the rate of 1,000,000 a year in the most direct form of competition with American labor. The rich man is protected, the laboring man is absolutely unprotected. We no longer need immigration to settle the country, for I live in the West and I know the good land is all taken and the labor market is already overstocked, and yet the Pacific coast expects 500,000 of these cheap laborers to come to the coast States through the Panama Canal in 1915.

If the gentlemen of the Ways and Means Committee wish to push back the date when this country will elect a Socialist President and Congress you had better take up this immigration question soon, for if it is not done Socialism will sweep this country within 10 years, for the great army of the laboring people will get desperate when they are even denied work and can no longer be even a paid slave. I myself am a Government employee, but even in this Western country I hear every day the rising storm of rebellion against present conditions. I have heard many men who last fall voted for Wilson say that if there was not a radical change in conditions in the next four years their next vote would be Socialist. If this administration attempts to retain the high protective duties and protect the special-privilege class and allow the labor market to be continually overstocked by the large employers of labor, as is the case at present, there will be a series of landslides at election time, for the masses to-day are in a progressive frame of mind and are strongly of the opinion that the laborers of this country who produce the wealth of the Nation shall in the future receive a larger share of the wealth they produce, and this tariff revision should be to the end of bringing that result about and make living conditions more tolerable for the masses.

Very respectfully,

E. L. YEAGER.

FEDERAL INCOME TAX.

NEW YORK LIFE INSURANCE COMPANY,
New York, February 4, 1913.

Hon. OSCAR W. UNDERWOOD,
Washington, D. C.

DEAR SIR: In framing a Federal income-tax law under the authorization of the last amendment to the Constitution, I beg to suggest to you the propriety of making therein provision, similar to the provision contained in the British income-tax law, excepting from the burden of the tax a limited portion of the income which the taxpayer applies to the purchase of insurance for the protection and support of his family.

Under the provisions of the British income-tax law, first enacted in 1842, and known as the income-tax act (5 and 6 Vict., c. 35), as amended by the income-tax act of 1853 (16 and 17 Vict., c. 34), "Any person who shall have made insurance on his life or on the life of his wife * * * and any person who shall under any act of Parliament be liable to the payment of an annual sum, or to have an annual sum deducted from his salary or stipend in order to secure a deferred annuity to his widow or a provision

to his children after his death, shall be entitled to deduct the amount of the annual premium paid by him for such insurance or contract, or the annual sum paid by him or deducted from his salary or stipend as aforesaid, from any profits or gains in respect of which he shall be liable to be assessed. * * * *Provided, always,* That no such abatement and allowance or repayment as aforesaid shall be made in respect of any such annual premium beyond one-sixth part of the whole amount of the profits and gains of such person * * *

The obvious object of such legislation is to make it as easy as possible for persons to make suitable provision for those depending upon them for support, and to encourage self-reliance and self-support among the people. It seems a wiser provision than involuntary insurance under the command of law, which is now so general in some of the old and conservative countries of Europe, such as Germany and England, and which they justify on the ground that insurance is a public necessity.

The several States of this country in their legislation recognize the principle underlying the provisions above referred to in the British income-tax law, not by incorporating them in the income-tax law of the States—for few States have income-tax laws—but almost without any exception they recognize them in their insurance laws by authorizing the heads of families to insure their lives for the benefit of their wives and children, or any of them, exempting such insurance from any liability for the insured's debts or engagements, or otherwise, to the extent that the premium paid for it did not exceed a sum specified in the law.

For example, in Alabama such a law may be found in the Code of Alabama, 1907 (sec. 4502). This Alabama law has had an interesting history, which indicates a settled policy of the State to encourage such provision for the family by protecting the proceeds of such insurance from diminution or diversion upon any ground or excuse.

Such a law was passed by the legislature of this State as long ago as 1840, and its provisions have been enlarged and strengthened in favor of the integrity of the proceeds of such insurance by numerous subsequent amendments. The wisdom of such legislation has never been questioned here or elsewhere so far as I can find.

May we not hope, therefore, that the Congress will be as wisely considerate on this important subject in whatever measure it adopts for the purpose of levying a tax on incomes as have been the legislative bodies of European countries and of our several States?

For your convenience I inclose herewith a full copy of that part of the British income-tax law of 1853 (16 and 17 Vict., c. 34) above quoted from.

Yours, very truly,

D. P. KINGSLEY,
President.

[Inclosure.]

"Any person who shall have made insurance on his life or on the life of his wife, or who shall have contracted for any deferred annuity on his own life or on the life of his wife in or with any insurance company which shall become registered under any act to be passed in the present session of Parliament for that purpose and which shall comply with the requirements of such act; and any person who shall, under any act of Parliament, be liable to the payment of an annual sum or to have an annual sum deducted from his salary or stipend in order to secure a deferred annuity to his widow or a provision to his children after his death shall be entitled to deduct the amount of the annual premium paid by him for such insurance or contract or the annual sum paid by him or deducted from his salary or stipend, as aforesaid, from any profits or gains in respect of which he shall be liable to be assessed under either of the said schedules (d) or (e) of this act, or to have any assessments which may be made upon him under either of the said schedules reduced or abated by the reduction of the amount of the said annual premium from the amount of the profits and gains on which said assessment has been made; or if such person shall be assessed to duties under any of the schedules contained in this act, and shall have paid such assessment, or shall have paid or been charged with any of the said duties by deduction or otherwise, such person, on claim made to the commissioners for special purposes, and on production to them of the receipt for such annual payment, and on proof of the facts to the satisfaction of the said commissioners, shall be entitled to have repaid to him such proportion of the said duties paid by such person as the amount of the said annual premiums bears to the whole amount of his profits and gains on which he shall be chargeable under any of the schedules of this act: *Provided, always,* That no such abatement and allowance or repayment as aforesaid shall be made in respect of any such annual premium beyond one-sixth part of the whole amount of the profits and gains of such person so chargeable as aforesaid, nor

shall any such deduction or abatement entitle any such person to claim detailed exemption or any relief from duty on the ground of his profits and gains being thereby reduced below £100 or £150, as the case may be."

Section 54, the income tax act of 1853 (16 and 17 Vict., c. 34).

DETROIT, MICH., February 19, 1913.

HON. FRANK E. DOREMUS,
House of Representatives, Washington, D. C.

MY DEAR MR. DOREMUS: I want to call your attention to the subject of the Federal income tax. As a taxpayer and a citizen, I have given a great deal of thought to this subject, and it seems to me that while the principle is fair, that unless the matter is worked out with a good deal of thought and care, it is not only liable to cause considerable injustice but class feeling in this country.

From what we have seen in the newspapers the proposal is to tax incomes amounting to \$5,000 and over. I believe I am safe in stating that a very large majority of the people do not have incomes of this size. In other words, those who enjoy an income of \$5,000 and over are in a minority. A person's interest in their Government is directly proportionate to the amount of direct taxation which they are compelled to pay to support this Government. The trouble with our indirect system of taxation; that is, our tariff system, is that people do not realize they are paying this amount out, and consequently they do not pay much attention to governmental expenditures or the results attained. I believe if the best results are to be obtained by our income-tax system; that is, the idea of obtaining a sufficient revenue to interest people in the Government and to prevent class feeling, that all incomes of every kind from \$1,000 per annum and upward should be taxed under the Federal income-tax system. Not necessarily a heavy tax. My idea would be to make those of from \$1,000 to \$2,500 pay the smallest minimum possible, say one-eighth of 1 per cent; of \$2,500 up to \$5,000, say one-fourth of 1 per cent; of \$5,000 to \$10,000, another advance; of \$10,000 to \$25,000, another increase, and so on upward until those people who are enjoying incomes of the largest sizes would pay the heaviest tax. In this way, there could be no class feeling engendered, no feeling of discrimination, and all classes would realize that they were compelled to contribute their share toward the burden of supporting the General Government, without throwing the bulk of this expense on a few people.

All of which is respectfully submitted for your consideration when the matter comes up in the House of Representatives.

Yours, very truly,

F. C. GILBERT.

STATEMENT SUBMITTED BY A. J. CONDEE, LOS ANGELES, CAL.

LOS ANGELES, CAL., January 22, 1913.

HON. OSCAR UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: An organized clamor might create the impression that the people do not need or want real tariff reduction, even though they emphatically said so last November. The people—the consumers—are not the ones benefited by protection and are about sick of the pretense.

The big beet-sugar plant at Oxnard, Cal., owns a vast acreage on which it raises its own beets, with the aid of Japanese. Last year, when sugar went up in the East because of an alleged shortage in the supply, these fellows out here boosted their prices to the same level and called it "good business." This is their own evidence before a committee of Congress. Further, the great sugar refineries in New York have always employed Polaks for laborers, paying them \$1 a day for 12 hours' work and seven days a week. The American laborer gets a lot of benefit—as much as the general consumer. The protection in sugar has built up some gigantic fortunes, that have been of no benefit to our country, and their possessors have not hesitated to defraud the Government of its revenues.

The very men out here who are demanding protection for their oranges, olives, lemons, etc., have said they are looking forward to the opening of the Panama Canal to bring them cheap foreign labor. They furnish shacks, about like a dog house, for their fruit pickers to sleep and eat in, but say that white men refuse to work. The Catholic societies of this State have presented a bill to the California Legislature to compel these men begging for protection to give their laborers decent housing and bedding.

There is not one single industry of magnitude in the United States that is paying good wages unless forced to do so by some labor union, and yet the pretense is made that railroad men, plasterers, masons, printers, etc., are well paid because of the high tariff. Take their shoe mills, cotton mills, and woolen mills. Plenty of tariff protection, and both wages and quality of the output have been lowered until the laborers can not live and the goods are as worthless as the promises of the mill owners. Do you remember the cry for protection to infant industries and American labor? Well, they were given the high tariff, and have hunted down and utterly destroyed every little competitor in the country, and have supplanted the American laborer with men who can not even talk the English language. Men out here who have voted the Republican ticket for a generation joined the Democratic Party at the last election because it has declared so emphatically for tariff reduction and against any further tariff protection.

I am fairly well acquainted with conditions from New England to the Pacific coast, and I unhesitatingly urge you to hew to the line. It is the best thing you can do for both your country and your party.

Yours, truly,

A. J. CONDEE.

CHILD LABOR.

THE COTTON MILL: THE HEROD AMONG INDUSTRIES.

[By A. J. McKelway, secretary Southern States National Child Labor Committee.]

Good old Nathaniel Morton, in his New England memorial, assigned as one of the reasons why the Pilgrim Fathers left the Old World for the New this:

"That many of their children, through the extreme necessity that was upon them, although of the best dispositions and graciously inclined and willing to bear part of their parents' burdens, were oftentimes so oppressed with their heavy labors that, although their spirits were free and willing, yet their bodies bowed under the weight of the same and became decrepit in their early youth, and the vigor of nature was consumed in the very bud."

When we begin to study the child-labor system in England, which the Pilgrim Fathers found so oppressive to their children that its existence was one reason for coming to the New World, we find that the cotton mill occupied a bad eminence. All through the eighteenth century we find references to the employment of children of tenderest years in cotton mills. These references are mostly of a congratulatory nature that a place for the child has been found in the world of industry and that the child is no longer an encumbrance but an asset. The attitude of the English people during this century may be summed up in the following quotation: "A quarter of the mass of mankind are children, males and females, under 7 years old, from whom little labor is to be expected."

It is interesting to note that though the Pilgrim Fathers say they came to America partly to escape the oppression of their children child labor preceded them, for in 1619, the year before the Fathers planted their considerable feet on Plymouth Rock, there is an acknowledgment of the General Court of Virginia of the 100 children sent over, "save such as dyed in the waie." A letter from England in 1627 mentions incidentally the fact that "there are many ships going to Virginia, and with them 1,400 or 1,500 children." These children were mostly paupers, but were often kidnaped and bound out to service. In 1646 two houses were erected in Jamestown for the manufacture of linen, and the different counties were "requested to send two poor boys or girls, at least 7 or 8 years old, to be instructed in the art of carding, knitting, and spinning." The textile industry did not flourish in Virginia, however, on account of its greater agricultural opportunities, and, returning again to the Pilgrim Fathers, one finds in Johnson's sermon on "Wonder Working Providence," published in 1638, that he commended the industrious people of Rowley, Mass., who had "built a fulling mill and caused their little ones to be very diligent in spinning cotton and wool."

It would seem that we must bring another indictment against the Pilgrim Fathers in addition to the familiar one, that having come to this country to escape religious persecutions they so soon became persecutors themselves, for after they came to America to escape the evils of child slavery they speedily inaugurated the system on American soil. In 1656, considering the development of manufactures in Massachusetts, the order was issued that "all hands not necessarily employed on other occasions, as women, boys, and girls, are hereby enjoined to spin according to their skill and ability."

Tench Cox argues that women and children will meet the demand for factory labor with the newly invented power machinery. In Niles's Register the statement is made that the work of manufacturing does not demand able-bodied men, but "is now better

done by little girls from 6 to 12 years old." Gov. Davis, of Massachusetts, in his message of 1835, echoes the sentiment of Lord Shaftesbury in England, that child labor had "spread from the cotton mills into other industries," by saying that "not only the machines in the textile manufacture, but thousands of others are equally worked by females and children."

Earlier than this, in 1829, Frances Wright, an English woman, in an address to an American audience, says: "In very many districts you have children worked for 12 hours a day, and you will soon have them, as in England, worked to death." Thus we see that child labor had grown in New England through the eighteenth century as it had grown in Old England, and in the nineteenth century, a half century after the first factory act in Old England, there began to be protests against the evil in New England.

In 1831 in a report on cotton, made at a convention of the Friends of Industry, the total number of children employed in cotton factories is given as 4,691; of this number 3,472 were from Rhode Island, 484 from New York, 439 from Connecticut, 217 from New Jersey, 60 from New Hampshire, 19 from Vermont, and none from Massachusetts. It may be remarked, however, that the "friends of industry" have always taken a roseate view of the child-labor system. As was stated to them not long ago by a Georgia legislator, they believe "in the protection of infant industries and the exploitation of infant industry."

INEFFECTIVE LAWS.

In 1842 an act was passed in Massachusetts making a 10-hour day for children under 12, but only those employers were convicted who "knowingly" violated it, a safeguard which was repeated in the Alabama law of 1907, the repeal of which proviso we find Gov. O'Neal urging in his message to the Alabama Legislature in 1911.

In Massachusetts Senate Document No. 69, we find that the Rhode Island law, requiring a low minimum of schooling before employment, was also a dead letter "There has never been a complaint, although it has been violated constantly, the employment of minors now depending on the necessity and cupidity of the parents and the interests of the manufacturers. The manufacturing interests are now a controlling power in the State, and it would be extremely difficult to enforce a law against their wishes." So, in the report of a committee of the Massachusetts Legislature in 1866, witnesses from New Bedford and Fall River testified that children of 7 were employed. From Lawrence it was reported that a great many children from 12 to 15 were working at night, "the majority of those who do night work are under 18 years of age."

In a report of the Bureau of Labor as late as 1870, an "overlooker" of 7 years' experience says: "Six years ago I ran night work from 6.45 p. m. to 6 a. m., with 45 minutes for meals, eating in the room. Children were drowsy and sleepy, having known them to fall asleep standing up at their work. I have had to sprinkle water to awaken them after having spoken to them until hoarse. This was done gently, with no intention of hurting them." In the same report is the following quotation: "A witness described to us an instrument for whipping children at a factory in Rhode Island, consisting of a leather strap 18 inches long, with tacks driven through the striking end." The cruelty to children of overseers in southern cotton mills has been mentioned by some writers, especially the throwing of water into the faces of children who went to sleep at night. Probably this particular practice has ceased, though, perhaps, occasional instances will not be so vehemently denied now that we have the precedent established in New England history. Strong coffee at the midnight hour is considered a more humane alternative for the purpose of keeping children awake.

RAPID INCREASE.

So much for the history of child labor in New England before 1870. The census of that year was the first to take notice of the extent of child labor in the United States, and its figures aroused new interest on the subject. Since that time the social sin of the system has been more clearly recognized by the social conscience, yet child labor increased in the decade between 1890 and 1900.

The census of 1900 reported 1,750,178 child breadwinners, 10 to 15 years of age, of whom 1,054,446 were engaged in agricultural occupations, which are usually considered advantageous to the child unless there is interference with his education. However, even in this occupation there were 237,252 children employed who were not reported as "belonging to farmers' families," and recent investigations have proved that hordes of these children are employed in picking berries and vegetables in the cranberry bogs, and in the canning of fruit and vegetables. So there were 934,985 children between the ages of 10 and 16 employed in various industries, besides those who were members

of farmers' families. The census enumerators were not required to report child bread-winners under 10, nevertheless there was a large number reported by some enumerators who, to this extent, disregarded their instructions, 997 being reported from three cotton mill districts in the South. It may also be readily granted that the census enumeration, while the best we have, falls short of the truth from the fact that where deception had been practiced by parents concerning the ages of children whom they had sent into employment, there would be an inclination to make the same representations to the census enumerators. One may find from Census Bulletin 69, entitled "Child Labor in the United States," that the cotton mill is still the chief sinner against the child. To quote from the bulletin, "To a greater extent than any other manufacturing or mechanical industry the cotton mill furnishes employment to children. * * * The proportion which children 10 to 15 years of age formed of the total number of cotton-mill operatives in 1900 is almost three times as great in the Southern States as it is in the Northern and Western. In the North about 1 cotton-mill operative out of every 10 was 10 to 15 years of age, while in the South the corresponding figures were about 3 out of every 10. Massachusetts, which reported the largest number of cotton-mill operatives, had the smallest per cent for operatives 10 to 15 years of age. In North Carolina children of 10 to 15 years were the most numerous, and formed the largest per cent of the total. As a rule, the proportion of children was greater for females than for males in both sections of the country, though the difference was more marked in the South than in the North."

GROWTH OF INDUSTRY.

The growth of the cotton-mill industry in the South has been one of amazing development. In 1880 the number of cotton spindles in the South was 667,754; in 1910, 10,650,000, an increase of 1,495 per cent in 30 years, as against an increase of 161 per cent in the country at large. There has been made recently under the direction of the Federal Bureau of Labor an investigation concerning the conditions of child and woman workers in several industries, the report completed containing 19 volumes, the first only of which has been printed, entitled, "The Cotton Textile Industry." This volume, of 1,044 pages, contains the severest indictment ever brought against any industry in this country concerning the employment of children. The report shows that 20 per cent of the employees in southern cotton mills are under the age of 16, in spite of the laws passed in all the Southern States since 1900. But the report itself shows it has been ultraconservative in its estimate of the number of children employed. It says, "Agents' estimates of ages have been disregarded in every case, and only age data supported by positive evidence have been used." It gives the following illustrations to show that its reports "come far short of the truth." In one mill in South Carolina, the agent reported: "There is absolutely no question that 17 of these children are under 12 years of age." Yet only 8 were positively so reported, as the ages of only this number could be positively established.

"Concerning another mill in South Carolina the agent reported: 'The mill employs many children, and the smallest I have seen working in any mill. I asked five exceptionally small ones how old each was, and each answered, "I don't know." These children, the superintendent says, work from 6 p. m. to 6 a. m. * * * I know beyond a reasonable doubt that there are 10 or 12 children under 12 working in the mill, 7 or 8 of them at night.'

"One of these children is an emaciated little elf, 50 inches high and weighing perhaps 48 pounds, who works from 6 at night till 6 in the morning, and who is so tiny that she has to climb up on the spinning frame to reach the top row of spindles.'

"All children at this mill were reported by mill officials to be over 12 years of age, and the statement was disproved in only 2 cases.

"In another mill in North Carolina the agent counted 9 or 10 children obviously under 12 years of age, but none were positively so reported.

"These few examples illustrate the difficulties of the investigation and show that the reports on some mills at least come far short of the truth as to the extent of the illegal employment of children."

In some mills, perhaps owing to the greater diligence or sagacity of particular investigators, the percentage of children employed was much higher than the average. In one yarn mill in South Carolina employing 168 persons, 70 were children under 16. In a cloth mill in that State 39.6 per cent of the employees were children. In Mississippi, which then had no child-labor law, 42.8 per cent of the employees in a small yarn mill were children. In 143 establishments visited 9,126 children were found employed, 753 of whom were under the legal age of 12 years, of whom 161 were employed as helpers, their names being omitted from the pay roll. It will be evident to the most superficial observer that the injuries to a child under 12 years resulting from

working a 12-hour day or a 12-hour night are greatly lessened if his name is not carried on the pay roll. That this statement as to the violations of the law is far within the truth is brought out in the following extract from the report:

"Not only do the above tables fail to show the full extent of the helper system, but they also fail to show the full number of children under 12 years of age whose names appeared upon the pay rolls of the establishments canvassed. The obstacle in the way of obtaining correct ages frequently proved insurmountable, and although the investigation was carried into the mill, into the office, and into the homes of the employees, the results obtained were frequently known to be far from accurate. It should be remembered that only those children who were either admitted or positively proved to be under the legal age are included in the above tables."

ILLITERACY OF MILL CHILDREN.

A good deal has been written in recent years about the superior educational advantages which the mill children enjoy, as compared with those in the country. The census of 1900 showed that the percentage of illiteracy among mill children in Georgia and the Carolinas was from three to four times as great as that of the white children of the same ages in these States at large. The partial investigation made by the Bureau of Labor discloses an even more lamentable state of things, proving that the demand for the labor of children is the greatest obstacle to their education.

The following conclusions are reached in the Bureau of Labor report:

"It will be seen by the foregoing table that the highest percentages of illiteracy among the children of cotton-mill families were found in Alabama and Virginia. In Alabama, out of 145 children under 14 reporting, 95, or 65.5 per cent, were unable to read and write. Of these, 42 had never attended school and 53 reported an average attendance of 6.5 months. In Virginia, out of 54 children, 38, or 70.4 per cent, were unable to read and write. Of these 10 had never attended school and 28 reported an average attendance of 10.7 months. The number of Virginia children included in this table is small and there might be hesitation in accepting the percentage as representative for this reason, but the figures of this table seem to be fully borne out by the statements of official reports.

"The lowest per cent of illiterate children under 14 years of age at work in the southern mill families visited was found in Georgia, where, out of 206 reporting, 88, or 42.7 per cent, were stated to be unable to read and write. Of this number, 28 had never attended school and 59 reported an average attendance of 8.9 months. The percentage of illiterates among the children under 14 at work in the Mississippi mill families reported was but slightly higher than in Georgia, namely, 44 per cent.

"That the standard of those reporting themselves able to read and write is low in many cases will be clearly apparent from an examination of the figures in regard to the average months of school attendance. Thus, in Mississippi, 65 children under 14 reported themselves as able to read and write, but their school attendance averaged only 13.5 months. In North Carolina the average school attendance for 151 such children was only 17.3 and in Alabama for 50 children only 17.5 months. In explanation of these figures, it should be said that in these States, in many school districts, the public schools are open only four months in the year, and for a child living in such a district 17 months of school attendance would mean attendance for more than four years."

NIGHT LABOR.

The extent of the employment of children at night is indicated by the following paragraph of the report:

"There were 223 cotton mills in North Carolina in 1908, of which 59 were covered during this investigation. Of these 59, 31 operated at night, not counting 2 that had within a year discontinued night shifts. In 3 of these 31 mills neither children under 16 nor women worked at night. In 28 mills, however, women were employed at night; in 27, children under 16 years of age were employed at night; and in 12 of these mills children younger than 12 were employed at night. The investigation was carried on in North Carolina late in 1907. The employment of children at night was not then illegal in that State, but in 1907 a law was enacted which prohibited after that year the employment in factories of children under 14 years old between 8 p. m. and 5 a. m.

"Out of 150 mills reported in 1908 in South Carolina, 36 mills were covered during this investigation. Of these, 5 with night shifts were found, but in one neither children under 16 nor women worked at night. In 4 mills children under 16 worked at night, in 3 women worked at night, and in 2 many children under 12, and some as

young as 8, worked at night, which was in violation of the law of that State, which prohibits the employment of children under 12 years old between 8 p. m. and 6 a. m. in factories or mines. * * *

"Taking the 28 North Carolina mills which employed women or children at night, all together, the children working by day in all these mills were 25.32 per cent of all the day employees there, and the 437 children working by night in all these mills were 26.29 per cent of all the night workers. But when these mills are considered separately, or by the departments in them which alone are operated by night, the percentage of children working at night of the total night employees differed widely in some cases. Thus, in 17 of the 28 North Carolina mills the percentage of night workers who were children was higher than the percentage of day workers who were children, while in 10 mills the percentage of day workers who were children was higher than the percentage of night workers who were children, and in 1 mill there were no children working by night. In 3 of the 4 South Carolina mills which employed women or children by night, the percentage of night workers who were children was higher than the percentage of day workers who were children, and taking the 4 mills all together, all the children employed by night were 32.15 per cent of all night workers and those employed by day were 22.70 per cent of all day workers. * * *

"The extent of the employment of children at night is indicated by one of several examples:

"Mill No. 1, North Carolina: The night workers say they prefer night work to day-work, yet there can be no question that it is far more injurious, for they seldom attempt to get as much sleep as they would get at night. The boys often spend the whole morning in hunting; then, after three or four hours' sleep in the afternoon, they go back to work in the mill for 11½ hours at night. The girls sit around the house, not going to bed until 10 or 11 o'clock in the morning, and get up about 4 in the afternoon. In the small crowded houses sound sleep is impossible during the day. The mill demands an extra half day's work on Saturday from its night workers. They quit at 6 o'clock in the morning and return again at noon. Taking out the time for breakfast and dinner, this allows at the most 4 hours of sleep out of 24. This means, for women and children especially, working beyond their strength. They have all reached the point of extreme fatigue by the end of the night. Invariably the answer is given by the night workers that it is the Saturday's work that wears them out. Wages for night work are from 10 to 60 per cent higher than for daywork in this mill, so many choose it for this reason. The work usually runs better at night, they say, too, so they have more time to rest than the day workers have during the actual working hours."

VIOLATIONS OF LAW.

There were violations of the law, also, in the New England States, chiefly in Maine and Rhode Island. The age limit of employment, however, was two years higher in these New England States than in the Southern States investigated. Out of 1,394 children under 16 years of age, 458 were found to be illegally employed. In Massachusetts, which made the best record, 19 children were found illegally employed out of 511 under 16 years of age. The illegality here consisted in the absence of employment certificates, for only one of these children in Massachusetts was found to be under the legal age of 14.

In Maine, 188 children out of 344 under 16 years of age were illegally employed, and in Rhode Island 238 out of 450. But, remembering that the age limit in the New England States is 14, compare these results with those ascertained in North Carolina, South Carolina, and Georgia by the Bureau of Labor:

"The most extensive violation of the age-limit law was found in South Carolina. In addition to 42 children under 12 years of age who were orphans, children of widows, etc., and who were therefore legally employed, 405 other children under 12 were found working in the establishments investigated in that State. As shown by the table such children constituted 12.3 per cent of the total children employed in the 36 establishments investigated and 2.8 per cent of the total number of employees. Children under the age of 12 years were employed in 34 of the 36 establishments investigated in the State, and 33, or 91.7 per cent, of these 36 establishments employed such children illegally. In 7 of these 33 establishments less than 1 per cent of the employees were children under the legal age and not legally excepted from the provisions of the law. In 20 establishments between 1 and 5 per cent were thus illegally employed. In 3 establishments between 5 and 10 per cent, and in 3 others over 10 per cent of all employees were children under 12 years of age, who were not legally excepted from the provisions of the law.

"In North Carolina the law was only slightly less flagrantly violated. Of the 59 establishments canvassed, 44, or 74.6 per cent, were found to be employed under the

legal age. * * * In one establishment in North Carolina (No. 44) 12.05 per cent of all employees, a higher percentage than in any other cotton mill investigated in the South outside of Mississippi, which had no child-labor law, were under 12 years of age. In the 44 establishments illegally employing children a total of 1,751 children were employed, 202 of whom, or 11.5 per cent, were under the legal age. * * *

"In Georgia 20 of the 31 establishments investigated, or 64.5 per cent, employed children under the legal age. Two other establishments employed children under 12, but all were employed under legal exceptions. A total of 107 children under 12 years of age were found at work, and of these, 41 were under legal exceptions; the remaining 66 were illegally employed. The 66 constituted 5.8 per cent of the children and 1.05 per cent of all employees in the 20 mills illegally employing children. Of all the children employed in the mills investigated in the State these 66 children constituted 3.6 per cent and of all employees in these mills 0.58 per cent. This is a much lower percentage of illegally employed children than in any other southern State except Virginia."

MILL OFFICIALS HIDE THE CHILDREN.

One really encouraging feature of the report, considering the low standards of child protection and the unconsciousness of the evil of child labor which prevails in most of the Southern cotton mills, is the statement made by this report that some of the manufacturers shrank from the publicity involved, by attempting to hide the children from the eyes of the investigators:

"In at least 10 mills, 3 in North Carolina, 6 in South Carolina, and 1 in Georgia, deliberate and determined efforts were made by mill officials to cover up the actual conditions in regard to child labor. Children were discharged temporarily, sent home for a few hours or a few days, or hidden in entries, in water-closets, or in waste boxes; anywhere so that they would not be discovered by the agent when going through the mill. Of these facts proof was obtained in every case. In 9 of these 10 mills statements of persons acquainted with the facts were taken in the presence of two agents of the bureau. In each of these cases the report of these statements was signed by both agents, and in 6 cases both of them made affidavits that the conversation was correctly reported. In some of the first mills in which fraud of this character was discovered, the agents reporting the attempts at deception were not required to make special affidavit as to the truth of their reports."

OPPOSING REFORM.

But if this is deemed not sufficient evidence to prove the indictment that the cotton mill is the chief sinner against the child, the cotton manufacturers have done all in their power to render its position conspicuous in this regard. The long struggle for better child-labor conditions in New England was a struggle against the manufacturers. During the last decade they have been the foremost opponents of standard child-labor legislation. In Rhode Island our National Child Labor Committee and the State committee forced the raising of the age limit from 12 to 14 against the solid phalanx of cotton-mill men. Every effort to make a shorter working day for children in Maine, New Hampshire, Connecticut, Rhode Island, and Massachusetts has been met by protests of cotton manufacturers. The recent governor of Massachusetts, belonging to a celebrated cotton manufacturing and cotton machinery family, threatened to veto any bill reducing the hours of labor for children in Massachusetts. It is because of the prominence of the cotton mill industry that Massachusetts has lost its leadership in the matter of child-labor reform to such States as New York, Ohio, and Illinois, that have an eight-hour day for children under 16 years of age. It is the cotton-mill influence in Philadelphia that holds Pennsylvania to the 60-hour week for children, and in the South it seems to make no difference in this attitude of hostility to child-labor reform whether there be few or many cotton mills in the State. The cotton-mill men of Maryland have held that State to the lowest age limit of any State north of the Potomac, namely, 12 years. It was the cotton-mill men of Virginia who resisted the raising of the age limit there to 14, and at the last session of the legislature attempted to repeal the Virginia law prescribing a 10-hour day for women and children. There has not been a meeting of the legislature in 10 years in North Carolina, South Carolina, Alabama, Georgia, or Tennessee in which the cotton-mill men have not appeared as a powerful lobby in the legislature, resisting every advance in child-labor legislation, though frequently, when a compromise has been accepted, they have immediately posed as the successful advocates of child-labor reform. It was the cotton-mill men in Mississippi, though that State has only a score of mills, who fought the enactment of its first child-labor law. It was the cotton-mill men of New Orleans who resisted most bitterly the enactment of the excellent Louisiana law. It is the cotton-mill men

of Texas and Arkansas who have opposed the enactment of a standard child-labor law in those States, though the industry is comparatively insignificant. And when I went to the Oklahoma Legislature to write its child-labor law, the only opponent to child-labor legislation was the proprietor of the single cotton mill which Oklahoma possessed. These facts are all matters of record, and while some of the able and astute manufacturers between sessions of the legislature are fond of congratulating themselves upon their advanced position in the matter of child-labor reform, and even pass beautiful resolutions at their annual conventions, they are reformers until the legislature meets and there is a prospect for a little better protection for the working children.

LET THEM COME WITH CLEAN HANDS.

Perhaps the manufacturers of cotton goods, North and South, before they will dare come again before the representatives of the American people asking for practically prohibitive tariff schedules on their infant industry, will have to come with clean hands to justify their claim to so great a benefit; will, in New England, agree to an eight-hour day for children under 16, such as is already prescribed by law in such great manufacturing States as New York, Ohio, and Illinois; and with the proper standard of legislation, will see to it that the laws are better enforced. The cotton manufacturers of the Southern States, whose lobbyists ever crowd the doors of every Southern legislature where restriction of the child-labor evil, so far as it concerns the cotton mills, is being debated, will have to cease their opposition and agree to the 14-year age limit, the short working day for children, the abolition of night work, and the enforcement of the law, else the representatives of the American people may withhold protection from those who deny it to the children.

So far as the establishment of a standard child-labor law, uniform in its requirements, is concerned, it is not too much to say that except for the position of the cotton-mill interests this would be a matter of speedy accomplishment. If in New England, Pennsylvania, and the southern cotton manufacturing States, the principles of this standard child-labor law could be agreed to, it would be a matter of little trouble and short time to secure similar legislation everywhere else. So we can properly hold accountable the cotton-mill industry not only for its direct oppression of childhood, but for holding back the Nation itself in the proper protection of the working children. And it seems to me that if there were a spark of the old southern patriotism left in the hearts of these men, if they could feel any shame at the peculiar position in which they have put the South and hold the South in the matter of child labor, they would at once see that this reproach is removed. The individual loss would be small in any instance, even if the contention can not be proved that the employment of children itself is a costly error to the business concerned. But when the manufacturers combine in their various industrial associations, and stand together against any legislative protection for the children, they not only keep enslaved the children of the cotton-mill industry, numbered by tens of thousands, but children of other industries, which would make no trouble over the enactment of a restrictive law. And through the backward position of the cotton-mill States, these manufacturers are really in a wholesale conspiracy against the toiling children of the Nation.

I have called the title of this paper, "The Herod Among Industries." If the employment of immature children tends to their bodily, mental, and spiritual degeneracy, an industry so founded upon the basis of child labor, as is this one, can be indicted for child murder, for the slaughter of the innocents. The Herods have not been popular among the rulers of history. And if this great industry, engaged in the beneficent business of giving cheap clothing to the world is nevertheless guilty under the indictment, so far as its existence on American soil is concerned, it may well look forward to one of two alternatives, the reform of its child-labor conditions or its destruction through economic law or legislative enactment. Already there are cries of distress being heard, pitiful pleas are being made against legislative restriction or child labor on the ground that the industry in the South is in a perilous state. Japan, building 108 new cotton mills in one year, has already taken possession of the Eastern market. It may very well turn out to be true that with the ever-increasing foreign competition which the cotton-mill industry in America will have to face, it will become an industry with too low a wage scale to flourish on American soil. And if refusing to be reformed, holding on, to the last gasp, to its child-labor system, with its long hours and low wages and the defenseless condition of its workers, it is destroyed at last, on its crumbling smokestacks, which now proudly flaunt their banners of industry against the sky, men will write the obituary of the ancient Herods:

"They are dead that sought the young child's life,"

A REVISION PROPOSAL, BY EVERETT P. WHEELER.

In considering the question of tariff reform now so vividly before the people and so insistently demanding answer, heed should be taken of certain lines of proven fact and established principles.

The primal requirement is that the American people should become absolutely convinced that the prosperity of this country is the outgrowth, not of high protective tariffs, but of causes whose potency may be seen and understood without elaborate or abstruse reasoning.

1. The unrivaled natural resources of the country. These vary in different States.
2. The condition of free trade between these States which the Constitution has guaranteed—under which condition each State has the benefit of the productive capacity of the others, there being no obstructive taxes to prevent or hamper the free exchange of products. The prosperity of one State has been, therefore, the prosperity of all.

3. Our free institutions, which give to every citizen an opportunity to improve his condition, as far as the law can insure such equality of opportunity. This is the very genius of the American system, and is absolutely opposed to the high-tariff schemes which have, in recent years especially, been fastened upon the people under the guise of "protection." The underlying object of these schemes has not been to insure equality of opportunity, but to give to every person who has become the proprietor of a mine, or a forest, an artificial bonus, which will enable him to make out of this natural advantage twice the profit that under ordinary circumstances he would have been able to achieve.

Having in view the mass of facts thus indicated, let us consider some of the points brought prominently forward in the discussion as to the revision of the existing tariff.

There is a great deal of talk about the difficulty of ascertaining the cost of production. This talk is absolutely deceptive. It overlooks the fact that in 1905 a census of American manufactures was taken by the United States Government. It was taken impartially, with no view to the tariff, but for the sole purpose of getting at the actual facts. The general results of this census, stated in thousands of dollars, is as follows:

	Per cent.	Amount.	Total.
Total value of product.....			\$14,802,147
Wages.....	17.6	\$2,611,540	
Salaries.....	3.9	574,761	
Material.....	57.4	8,503,949	
Total.....	78.9		11,690,250
Net earnings.....	21.1		3,111,897

In round numbers: Product, fourteen billions and a half; wages, two billions and a half; salaries, half a billion; net earnings, three billions.

The report of the United States Steel Corporation for the same year supplies us with corroboration of the accuracy of these figures. The gross product of that great corporation, in thousands of dollars, was \$444,405. To obtain this result there was expended for salaries and wages \$99,778, or 22½ per cent.

The United States official returns of the textile industry for the same year, in thousands of dollars, corroborate the conclusion drawn from the returns from all industries:

	Per cent.	Amount.	Total.
Total value of product.....			\$2,147,441
Wages.....	19.5	\$419,841	
Salaries.....	3.3	69,281	
Materials.....	58	1,246,562	
Total.....	80.8		1,735,684
Net earnings ¹	19.2		411,757

¹ The Census tables for 1905 do not give the miscellaneous expenses. After paying these out of earnings the balance is profit.

From these figures it appears that the net earnings of capital invested in manufactures during the census year were about equal to the entire amount expended for salaries and wages. Taking the industries of the country as a whole, they were larger; taking the textile industry, they were somewhat less; but in both cases very nearly the same.

It appears distinctly, then, that the entire wage cost of the product of the manufactures of this country did not, in 1905, exceed 20 per cent of the value of the product. These figures are officially authentic. What objection, then, can honestly be made to the immediate enactment of a law that no article shall pay a higher rate of duty than 50 per cent ad valorem? This is two and a half times the proportion of the labor cost of our manufactured articles. Certainly it is more than sufficient to cover the difference in the cost of production.

From this general provision there should be excepted the duties on wine, spirits, and tobacco. On all of these internal-revenue taxes are laid, and the tariff on the imported article should be sufficient to countervail the internal-revenue tax.

An amendment similar to that here suggested was proposed by Senator Gray in the Senate of the United States when the McKinley tariff bill was under consideration. A somewhat similar provision was afterwards proposed by John Sharp Williams in the House of Representatives. In both Houses a high-tariff majority voted the proposition down. And yet in the Philippine tariff of 1909 it was provided that "No article shall pay a higher rate of duty than 100 per cent ad valorem" except, etc. The propriety of fixing a limit to the upward scaling of the tariff was distinctly recognized. The exceptions, however, were curious and distinctly instructive. The Sugar Trust was sufficiently powerful to have the 100 per cent limit withdrawn as to sugar. The manufacturers of matches obtained similar favor. Can anyone justify such exceptions? And what a lurid light special legislation of this sort throws on the tariff arguments which have heretofore prevailed in congressional tariff committees.

The tariff reformer may say that the proposed limit of 50 per cent is too high, allowing an excess over any possible difference in the cost of production between America and Europe. Probably it is; but the existing tariff, in many cases, amounts to 100 per cent ad valorem. A cut to 50 per cent will give the consumer relief and will not be so radical as to cause commercial distress.

When the McKinley bill was before the Senate, Senator Gray proposed an amendment limiting the amount of the duty upon any imported article to the entire wage cost involved in producing the like article in America. Was that a sufficient concession to the high-tariff pleas respecting the advantage held by the foreign manufacturer in the low rate of wages obtaining abroad? It would seem so. Yet the proposition was voted down.

Among the objections made to any cut in our tariff rates is this: That the American manufacturer is at a disadvantage in competing with foreign manufacturers because of the duties now imposed upon raw material. The best answer to this is to put raw materials on the free list. This would directly decrease the selling price of the finished product. The cost of material is more than half the value of the finished product and amounts to two-thirds of the cost of production. The duties which we levy on these materials increase directly this cost of production. Strike off these duties. Give our manufacturers free raw material. Immediately, without diminishing the fair profits of industry, you would diminish the selling price. You would, furthermore, work a practical increase in wages by giving the workman the necessities of life cheaper than he can now buy them. Not only so, but by diminishing the cost of the finished product, and consequently, the price of it you would enlarge the market for it. The demand would be increased, and with the increased demand wages would advance. Thus, by simply taking off the burdens that the present law imposes upon American industry, employer and workmen would alike be benefited.

The question of tariff reform presents many phases, and these lines are offered rather as suggestion than scientific analysis. Clouds of dust are being beaten up. But through all would it not be at once simple and sensible to stick close to the question as to whether or not there is to be a limit to the rates of duty claimed in the name of "protection." Is it or is it not a fair proposition that no duty should exceed 50 per cent of the value of the article upon which it is imposed? The proposition would seem to be reasonable; and if this be so, we have here at least one clear rule for the achievement of a rational revision of the tariff—revision downward.

THE ELEVENTH ANNUAL REPORT OF THE AMERICAN WOOLEN CO. FOR THE FISCAL YEAR ENDING DECEMBER 31, 1909.

The year 1909 will pass into history as a favorable one to our industry. The anticipation of your directors made in our last report was amply verified.

Although the orders for goods were unprecedented in the months of January and February and were immediately put into the machinery (a great portion of which was still idle, recovering from the effects of the 1907 panic) it was not until well into March that the goods began to come from the looms for market. This lapse of time is reflected in the sales, which, but for that interruption, would undoubtedly have been the greatest in its history. As it was, the company's sales and income amounted to approximately \$48,000,000, against \$29,000,000 the previous year.

The year 1910 opened with prospects which appeared nearly as bright as those of the previous year, but at this writing the outlook is somewhat obscure because of the uncertainty of the effect of the expected decisions of the United States Supreme Court in the two pending cases under the Sherman Antitrust Act.

There has already been a faltering in orders for goods caused by the conservative action of the merchants of the country in placing their orders, but notwithstanding this we have every reason to expect a good volume of business and have prepared ourselves to handle it. The advance sales of cloth have been provided for by engagements of wool in anticipation of our wants.

This company depends upon a large volume of business for its success; the margin of profit is small, and while an endeavor has been made to create an impression reflecting upon the greed of the woolen and worsted manufacturers, the fact remains that the average profit for the last five years upon the cloth made by this company that enters into a suit of clothes will average less than 40 cents per suit of clothes. Certainly, considering the risks involved, the large amount of capital necessary for the conduct of the business, fluctuations in the raw materials, and the necessity of a large volume of business to employ all its machinery, any fair-minded person can not consider this profit unreasonable. If the price of clothing appears high, one must look elsewhere for the cause.

THE COMPANY'S POPULARITY WITH THE TRADE.

In the 10 years' existence of your company we have passed through several years of depression and panic, but such periods have only served to cement the friendly relationship now existing with the trade in general, for in such times many a customer has found the American Woolen Co. not a grasping monopoly but a bulwark of strength, ready to extend a helping hand.

When the American Woolen Co. was formed 10 years ago, there were many prophecies of failure, but our organization has been of great assistance in elevating the woolen business from a chaotic state to a firm position among the greatest of American industries, and the steady growth in the volume of our business attests the loyalty and good will of the trade in general.

WOOL.

The price advance in wool, our main raw material, for this season's goods has been about 25 per cent over wools provided for the corresponding season's goods of a year ago.

RETURN TO POPULARITY OF WOOLEN GOODS.

While woolen goods have been out of favor for several years, the present year shows a return to popularity of woolen goods, with a less demand, perhaps, for cotton-adulterated goods, which are being superseded by all-woolen fabrics. As to worsteds, our faith in the demand for these fabrics is unabated, and we look for a substantial and continued growth in the line of manufacture of these desirable fabrics. In other words, we anticipate a return to the days when both fabrics will be wanted, and both our woolen and worsted machinery will be fully occupied.

THE WOOD WORSTED MILLS AND THE AYER MILLS.

The Wood worsted and Ayer mills have a separate corporate existence, but their entire capital stock, excepting one share to each director as required by law, is owned by the American Woolen Co. The business of the Wood worsted mills is not included in the American Woolen Co.'s report. The Ayer mills are now in process of construction, and the management anticipate having them in operation by July 1, 1910. It is planned to keep the business of both the Wood worsted and Ayer mills separate, until the earnings of each of the mills have been sufficient to liquidate the indebted-

ness represented by the outstanding coupon notes. After this is accomplished, the earnings of these two mills will be included in the earnings of the American Woolen Co. In the meantime each mill will be allowed to work out its own financing, and in the case of the Wood worsted mills this financial policy is being successfully demonstrated.

A TEN-YEAR RECORD.

The report here presented is the tenth full annual report of the company; the first report, that of 1899, covering only nine and one-half months' operations. The company has, during the period of its existence covering 10 years, done an aggregate business of \$424,536,030.08; has earned, as shown by reports, \$37,107,559.57; has paid out in dividends on its preferred shares, quarterly, without an interruption, \$18,800,000; has charged to depreciation, \$7,986,374.82; has created a surplus of \$10,514,808.23, and has increased the wages of its employees, without any interval of decrease in wages, some 25 per cent.

The growth of the company's business from \$20,000,000 in 1899 to \$51,000,000 in 1906, has been most gratifying. This increase has of necessity required a largely increased working capital, and this has been accomplished by an increase in the preferred stock from \$20,000,000 to \$40,000,000.

All of the plants of the American Woolen Co. are free from leases, mortgages, and bonded indebtedness.

The company carries full insurance on all its properties, materials, and fabrics. In addition to the fire insurance the company is protected by insurance against costs or damages arising from injuries to its employees and others.

The physical condition of the property was never better. Improvements have been made in all the plants of the company, and in many mills modern, up-to-date equipment has been substituted for all of the original machinery.

The improvements installed and the new mills built have brought the capacity of the company up to a high state of efficiency.

The operations for the fiscal year are shown in the treasurer's report which is appended.

WM. M. WOOD, *President.*

TREASURER'S STATEMENT.

American Woolen Co. balance sheet, Dec. 31, 1909.

Cash.....	\$2, 202, 572. 67
Accounts receivable, net.....	19, 074, 684. 23
Inventories: Wool and fabrics, raw, wrought and in process, and coal and supplies.....	18, 938, 435. 37
	<hr/>
	40, 215, 692. 27
Plants, mill fixtures and investments.....	42, 183, 568. 93
	<hr/>
Capital stock of Ayer Mills.....	99, 300. 00
Capital stock of Wood Worsted Mills.....	3, 499, 400. 00
	<hr/>
	85, 997, 961. 20
	<hr/>
Bank loans.....	4, 585, 350. 00
Current vouchers and accounts.....	813, 369. 64
	<hr/>
	5, 398, 719. 64
Accrued dividends on preferred stock to Dec. 31, 1909 (payable Jan-15, 1910).....	583, 333. 33
Capital stock (common).....	\$29, 501, 100. 00
Capital stock (preferred).....	40, 000, 000. 00
	<hr/>
	69, 501, 100. 00
Surplus.....	10, 514, 808. 23
	<hr/>
	85, 997, 961. 20
	<hr/>

PROFIT STATEMENT FOR THE YEAR 1909.

Net profit for the year 1909.....	\$5, 798, 058. 65
Dividend on preferred stock.....	2, 610, 416. 66
	<hr/>
Depreciation.....	3, 187, 641. 99
	<hr/>
Surplus for year 1909.....	1, 569, 105. 00
Surplus at Dec. 31, 1908.....	8, 945, 703. 23
	<hr/>
Balance: Surplus Dec. 31, 1909.....	10, 514, 808. 23

By approval of the board of directors.

WM. H. DWELLY, Jr., *Treasurer.*

I hereby certify that the above statement is correct.

GEO. R. LAWTON,
Certified Public Accountant.

BRIEF ON BEHALF OF AMERICAN CONSUMERS, BY EVERETT P. WHEELER.

The first criticism I make upon the Payne-Aldrich tariff is its complexity. It covers 107 printed pages in the large quarto volume 36 of the United States Statutes at Large. It seems to have been drawn by men who were afraid to make any departure from tariff laws which grew up during the Civil War, when the Government needed revenue from every source, and taxed everything, whether foreign or domestic.

The experience of England in this respect is enlightening. Since the repeal of the corn laws in 1846 under Sir Robert Peel's administration, the English tariff, which formerly was as high and almost as complex as ours, has been progressively amended from time to time by repealing taxes on various articles. At every repeal British trade has increased. Not only have imports increased, but so also have the exports of British manufactured goods. During the last 10 years these have increased more rapidly than those of any country in Europe. The consumption by the plain people of food has increased. It may be truly said that English wage earners are paid much better wages and live far more comfortable lives now than they did in 1846.

It is often given as a reason for maintaining the existing tariff that farmers and mechanics in this country are better off than they are in Great Britain. That no doubt is true, but those who bring forward this argument forget the enormous natural advantages enjoyed by this Republic. The population there is crowded on two islands. Here we have half a continent with every variety of soil and climate, and more than half the material that we need for our factories is the product of our own mines, our soil, and our forests. Nothing shows more clearly the benefits of freedom of trade than the growth of British commercial prosperity in spite of the competition and hostile tariffs of the great nations of the world.

Then it should be noted that all experience shows that more revenue is collected from a moderate tariff on comparatively few articles than from a high tariff on many. The object of the Republican tariff has avowedly been to prevent trade. As Senator Heyburn said in the debate in July, 1912, on the sugar bill: "I would not allow the most highly skilled and best equipped foreigner to compete at the expense of the less-equipped American citizen." In short, his idea of the Payne-Aldrich bill was that it was a noncompetitive tariff. Our President elect says we should have a competitive tariff. The distinction between the two parties is well-expressed in these two phrases. Senator Heyburn did not consider that the more you destroy competition by a high tariff the more difficult you make it to export American goods, because you thereby increase the expense of producing them. He would, in short, keep alive a few badly equipped and inefficient producers at the expense of the great body of consumers. That is not Democratic. The greatest good to the greatest number is our maxim.

In our revision of the tariff I would follow the principle laid down by the Democratic platform of 1892:

"We indorse the efforts made by the Democrats of the present Congress to modify the tariff's most expressive features in the direction of free raw materials and cheaper manufactured goods."

On this issue we carried the country in 1892 and obtained a majority in both Houses of Congress.

It is said by some of our friends that in a "tariff for revenue only" a duty should be levied upon raw materials as well as the finished product. The answer to this is twofold. In the first place, an American tariff ought not to discriminate against American manufacturers. Germany, France, and England do not tax raw materials. The

manufacturers of those countries therefore do not have a tax upon materials as an element of cost of this finished product. Surely American manufacturers ought not to be subjected to this burden. In the second place, as I have pointed out, revenue from a tariff is increased by diminishing the rates and simplifying the exactions.

In the revision of the tariff I would change the method. Instead of taxing everything, as the present tariff now does, with a few exceptions, called the free list, I would single out objects to be taxed which would yield the necessary revenue and tax nothing else. The present tariff is a perfect dragnet. After an elaborate specification of items with all sorts of duties, many of which are complex, so much a pound and so much additional ad valorem, which enumeration covers 60 closely printed quarto pages, there is the following sweeping clause (480):

"There shall be levied, collected, and paid on the importation of all raw or unmanufactured articles not enumerated a duty of 10 per cent ad valorem, and on all articles manufactured in whole or in part not provided for in this section a duty of 20 per cent ad valorem."

Grover Cleveland once said that unnecessary taxation was unjust taxation. How can it be necessary to put in a sweeping clause like this? If the tax collector can not point out the article to be taxed, it certainly ought to go free. But the next section (481) is even more exacting and is a cause of perhaps more complexity, uncertainty, and litigation than all the rest of the tariff put together. This provides:

"That each and every imported article not enumerated in this section which is similar either in material, quality, texture, or the use to which it may be applied to any article enumerated, shall pay the same rate of duty which is levied on the enumerated article which it most resembles in any of the particulars before mentioned. If it equally resembles two, it shall pay the higher rate. If composed of two materials the duty shall be assessed at the highest rate at which the same would be chargeable if composed wholly of the component part of chief value. * * * If two or more rates of duty shall be applicable to any imported article, it shall pay duty on the highest of such rates."

The poor consumer is hit every time. I would repeal both these sections.

There is one other feature in the Payne-Aldrich bill which the Democratic Party ought not to imitate. Unlike most tariff bills, it provided that it should take effect on and after the day following the passage of this act. It was signed, so the statute book tells us, by the President at 5 minutes past 5 in the afternoon. This meant that the change, which it necessarily produced in the whole business of the country, should be instantaneous. Now, business can not be done in a minute. Between the period when a manufacturer buys his material and the date when his goods get on the market and are sold to the consumer, there is often the period of a year. No doubt there are many instances where producers in this country make excessive profits. But in the manufacture and distribution of their products, millions of our people are interested. It would be most unjust to pass any tariff bill which would go into effect at once. Congress should give to business a reasonable time to adapt itself to the changed conditions which the new law will produce.

Let me now go over the different schedules and point out a few articles of common use which certainly ought not to be taxed.

SCHEDULE A.—*Chemicals, oils, and paints.*

What excuse can there be for a tax on borax, camphor, gelatin, castor oil, cod-liver oil, olive oil, and sulphur? Borax is a particular abomination. It is in general use. It is the product of one or two Western mines. The census shows that the cost of production is less than 10 per cent of the value of the finished product and yet we have a duty upon it of 75 per cent. That is a pure steal. American borax is sold in London for about half the New York price.

SCHEDULE B.—*Earths, earthenware, and glassware.*

We find that cement, lime, gypsum, clays or earths, mica, marble, and freestone are all taxed. These are all articles of general use. In the case of marble the cost of production per cubic foot is small because it is cut by machinery. The same is true of freestone and granite.

SCHEDULE C.—*Metals.*

We find a duty on iron ore, pig iron, lead ore, pig lead, nickel, zinc ore, and pig zinc. These are all articles which enter into universal use in various manufactures. The cost of production is very small. The effect of this tax is to increase enormously the profits of the mine owners at the expense of the general public.

SCHEDULE E.

The retention of the present tariff on sugar is defended on the ground that this is necessary in order to enable the farmers who raise sugar beets to make money on their crops. It is possible that there are some farmers who are trying to raise sugar beets on lands that are not adapted to that particular crop, who would suffer, but the great body of sugar-beet growers do not need any protection. Truman G. Palmer, the secretary of the American Beet Sugar Association, in an address (S. Doc. 530, 60th Cong., 1st sess.) says:

"This year (1908) the farmers of these States will receive \$20,000,000 for their crop of sugar beets, from which will be produced 400,000 tons of refined granulated sugar, the gross returns to the farmers running from \$60 to \$125 per acre, with an average expense of production of \$35 to \$40 per acre."

To enable this profit to be realized, a duty which averaged in 1904, the census year, over a cent and a half a pound, was imposed upon 1,620,000 tons imported into this country. The average cost in the foreign country from which it was imported was 1.94 cents per pound. (U. S. Statistical Abstract, 1906, p. 480.) The same work (p. 533) gives the total consumption of sugar in the United States for the same year as 2,767,162 pounds, an average of 75 pounds for each person in the United States. In a family of six this would be 451 pounds. The increase in cost to the consumer is always more than the duty, and was at least 2 cents a pound, or \$9 for the family. In the family of a rich man this tax is trifling. To the man that earns \$10 a week or less, it is burdensome and unjust. It is imposed upon 76,000,000 people and how many does it benefit? The bulletin Mr. Palmer quotes shows that there were employed in the refineries of beet sugar 4,726 persons. The area under cultivation in 1904 is 240,757 acres. Allowing three workmen to the hundred acres, which is more than the average, this would make 7,221 persons engaged in the production of the sugar beet in the United States. In the address I have quoted Mr. Palmer says: "More and more of our field work is being done by horses. Ten years from now but little handwork will be necessary."

It thus appears that to benefit 12,000 persons scattered through the country every consumer in the United States is compelled to pay 2 cents per pound more for his sugar.

Such a bonus tempts producers to use slovenly methods instead of cultivating to the best advantage. This has notably been the case in Louisiana. In like manner when Siemens invented a method of making glass that was much cheaper than any other known the American manufacturers refused for years to work under his patents because the tariff on glass excluded foreign competition. All this is wasteful. It adds to the cost of production, diminishes the total product, and consequently the workman's share in this product. His nominal wage may increase, but the cost of living increases more rapidly. If the artificial stimulus of a high tariff were removed, business of all sorts would seek the natural channels. Goods would be made and sugar, rice, wheat, and all other articles of food would be produced where natural advantages were the greatest. The workmen would require food, clothes, and shelter just as they do now, but would get more for their wages than they now do. This would increase demand and wages would rise.

It is a mistake to suppose that high wages imply high cost of production. On the contrary, the best-paid labor is generally cheapest in the end, because the more productive.

The radical vice of the present tariff is putting a tax on material—on coal, ore, lumber, and the like. It thus increases the cost of production without benefiting anyone but the owners of the mines and forests. And this tax is cumulative. The increased cost of the ore makes the pig iron dearer. The iron founder makes a profit on the increased cost of the pig. The structural iron that goes into the building is sold at a profit still further increased. And in the last analysis this profit comes out of the tenant. The same is true of the lumber that goes into the frame building. The most burdensome feature of the present tariff is the increase in rents which its heavy tax on all building material has caused.

The argument that a high tariff on a particular article attracts capital and leads to competition in the manufacture of that article does not look far enough. That is its first effect. The wasteful competition that follows ruins the smaller manufacturers, and their factories are swallowed up by the larger, who combine and form a trust, which destroys competition. This is just what has happened in the sugar, ore, and iron business, and in many others. A high tariff is the mother of trusts.

As to the revenue side of the duty, let me say this: It does produce a large revenue. But it is a mistake to suppose that the rich man consumes sugar in proportion to his riches. His large expenditure is in other things. When he pays 75 cents

for a pound of fancy sweets, the sugar that enters into the article costs perhaps 5 cents. The poor man uses sugar as a necessary food; the rich man uses its product as a luxury. But the same tax is levied on the pound of sugar, and it is paid by rich and poor alike.

It is true that in one sense all are consumers and all producers. But most of the consumers are injured and not benefited by the existing tariff. Almost all engaged in agriculture and all engaged in professional service and trade and transportation are free from foreign competition. The manufacturers of iron, steel, and oil already compete successfully in foreign countries, and need no tariff for their protection against foreign competition. On the other hand, every consumer suffers from the increased price on the articles he buys, which is caused by the present tariff.

We should learn from the freedom of trade between the different States of the Union that trade is a benefit and not an injury, and that when the product of one industry is bought it is paid for in the end by the product of another. This would be equally true if our laws were so framed as to encourage trade with foreign countries instead of prohibiting it as far as possible.

SCHEDULE G.

We find a duty on lemons of $1\frac{1}{2}$ cents a pound. The King of Italy said that this tax upon Italian lemons was a greater injury to Italy than the earthquake of Messina. It was imposed for the benefit of the California lemon growers. They have the best climate and soil in the world for the production of lemons, and the cost of transportation from the Atlantic seaboard to any point west of the Mississippi gives the Californians a monopoly of the business over all that great territory. Certainly lemons should be put on the free list.

SCHEDULE K.—“Wool and manufactures of.”

It appears from the Census Manufactures Bulletin of 1910 that in the previous year the entire value of woolen and worsted goods manufactured in the United States was \$419,743,521. In producing these goods there were used 310,602,279 pounds of domestic wool costing \$85,018,238; 164,153,087 pounds of foreign wool, costing \$51,648,479. The average cost of the domestic wool was 27 cents a pound and of foreign wool 31 cents a pound. It is well known that many grades of foreign wool are not produced at all in this country. Wool is nothing but the natural clothing of sheep, and this clothing varies according to climate. We do not grow the heavy wools out of which carpets and the cheap varieties of clothing are made, and yet we have a tariff on wool which is complicated and oppressive. On dirty wool it varies from 4 to 12 cents a pound. That means that the dirt pays the same as the wool. If the wool is washed the duty is doubled. If the wool is scoured the duty is trebled. On the real wool, therefore, it is obvious that the duty ranges from 12 to 36 cents a pound, which is nearly and often quite 100 per cent. When this high duty has been paid by our manufacturers they obviously expect in selling their goods to make a profit not only on the wages they pay, but on the advances for duties that they have been obliged to pay.

For another reason the tax on materials should be reduced. The cost of these materials as shown by the Census Bulletin of Manufactures of 1910 (p. 3), is $58\frac{1}{3}\%$ per cent of the value of the finished product. Wages are $16\frac{1}{3}\%$ per cent; salaries $4\frac{1}{3}\%$ per cent; miscellaneous expenses, $9\frac{8}{10}\%$ per cent; leaving $10\frac{1}{2}\%$ per cent of profit. These proportions vary somewhat in the different trades. In the manufacture of textiles of every kind, cotton clothing, wool, rugs, etc. (ibid., p. 39):

The value of the products is.....	\$1, 684, 639, 499
Cost of materials.....	\$992, 635, 299
Amount paid for wages.....	\$335, 938, 733
Amount paid for salaries.....	49, 123, 634
	<hr/>
	385, 062, 370
	<hr/>
	1, 377, 697, 669
This leaves a balance of.....	306, 941, 830

There were 31,208 salaried employees and 881,128 wage earners. The capital invested was the great sum of \$1,841,242,131. (The table at page 39 does not give the miscellaneous expenses.)

It is obvious that if the manufacturers can buy their materials for less they can and will sell the finished product at a lower price. This will increase the demand, and the result will be a greater product and more money paid for wages. By this method of tariff revision, then, everyone will be benefited. The man will get his

suit of worsted clothes cheaper, the workmen in the factories will get more wages, and there will still be a fair profit for the manufacturer.

In reference to this particular schedule, let me quote from the message of President Taft transmitting the report of the Tariff Commission (Cong. Rec., 1912, p. 10357): "On cheap and medium-grade cloths the existing rates frequently run to 100 and on some cheap goods to over 200 per cent."

It is sometimes said that the woolen manufacturers make enormous profits. Very likely some of them do make large profits; but the figures I have given show that the business as a whole is not done at an excessive profit. What they do show is that our complex tariff, by imposing a duty not only upon the wool which manufacturers use, but upon their dyestuffs, chemicals, coal, machinery, and other necessary materials and tools, increases the expense of production without any real benefit to anyone.

SCHEDULE N.—*Sundries.*

We find a duty on bituminous coal of 45 cents per ton. There is no possible justification for this. The bulk of coal gives to mine owners a monopoly over the whole country excepting the Atlantic seaboard. Why should our people along the coast be compelled to pay a steadily increasing price for our coal?

EVERETT P. WHEELER.

FEBRUARY 6, 1913.

SUGGESTIONS FOR TARIFF REVISION.

LEAVENWORTH, KANS., *January 18, 1913.*

HON. D. R. ANTHONY, Jr.,
Washington, D. C.

DEAR SIR: We wish to address you regarding a reduction of tariff, which is now receiving the attention of the Ways and Means Committee sitting at Washington.

We would suggest to you, in fact we would urge you, to advocate the gradual application of tariff reductions so that the annual lowering of any schedule shall not exceed 5 per cent per annum. Any merchant could stand this decline in value easily and could go ahead and trade without fear. If it should be reversed by the immediate reduction of the tariff law, it would prove a great hardship on every merchant.

We hope that you will understand what we mean and thanking you in advance for your attention to this important matter, which interests every merchant of this country, we remain,

Yours, very respectfully,

WOOLFE & WINNIG DRY GOODS Co.,
By B. B. WOOLFE, *President.*

SCHENECTADY, N. Y., *October 28, 1912.*

WOODROW WILSON COLLEGE MEN'S LEAGUE,
Hotel Imperial, New York.

GENTLEMEN: I was pleased to receive your communication, with which I am in hearty sympathy, notwithstanding the fact that I have never voted a Democratic ticket.

You ask for aid in the way of money and ideas. I gladly inclose my contribution, consisting of a little of both, the first ever offered for a similar purpose.

Sometime ago I noticed in a New York paper, under a heading of "Editorials by the people," the suggestion of a way to operate the tariff like an automatic machine and do it in a manner which, I believe, is in entire accord with the views of Gov. Wilson. I have therefore been looking for a proper and effective way to present this plan for his consideration and trust that through your organization I may be able to do so. The plan is as follows:

For a start, reduce all rates a given amount as 5 per cent and let the new rate stand for a year during which an accurate account of the revenue produced by each schedule is kept for comparison with the year preceding. Any schedule which shows an increase in revenue is reduced the same amount for the next year and so on as long as the revenue continues to show an increase. When any schedule shows a decrease, and therefore has passed the maximum, the rate for the preceding year is restored and allowed to remain for a given period as five years. At the end of that time the correct rate to meet any change of conditions may be found by the same test as at the start.

To put this plan in operation, Congress must pass a law covering the rules and the desired results are bound to follow unless deliberately vitiated by unreasonable classifications or similar devices. Under it the Republican stock objection that it will unsettle business is entirely overcome because no one change is enough to suddenly affect business and one who understands any line of business can predict as far into the future as under Republican conditions.

Trusting that the above, as well as the inclosed money order, may be of some assistance and that we may elect a man in a different class from any previous candidate, I remain,

Very truly, yours,

EDWIN C. KNAPP.

THE SOMERVILLE MANUFACTURING CO.,
Boston, January 24, 1913.

HON. OSCAR W. UNDERWOOD,
*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

DEAR SIR: Undoubtedly you realize the tremendous responsibility that rests on your shoulders, standing as it were between the millions of people on the one side who are relying on you and the fellow-members of your committee to see that justice is meted out to them in this perplexing tariff problem, and facing on the other side the intelligent, keen, and far-sighted, insistent, and persistent men who are bound up in their special and privileged interests and who by appeal and argument and by the exercising of such pressure as they may be able to bring to bear are striving to the utmost of their powers to retain all the benefits which this present tariff may offer to their infant (?) industries or seeking as in some cases to add to the favors which this tariff already bestows, thus still burdening the people with present or increased taxation.

You and your committee are the one bulwark that at the present time may stand for the defense of the people against these seekers for tariff plums.

The country spoke in no uncertain tone last November, and the people are pleased and proud that at last you men stand in your places to give righteous and just dealing to the millions whose hope you are—the North and the South, the East and the West, feel safe in your hands.

When we read of the gathering before your committee of the men who represent these great industries, and in many cases great trusts, who will contend and strive to the extent of their might to the maintenance or extension of the special privileges which they desire, we realize somewhat the power which they exert. On the other hand, how few of the moderately circumstanced, or those less favored, can appear before your committee to plead their cause which yet to them is, in proportion, as vital to their welfare.

Is there scarcely an article which enters into the daily life of every citizen that is not controlled by a trust and so many of them tariff-protected trusts?

Are these industries suffering for lack of profits? Look at the dividend sheets and the increases of capital through stock dividends on which increased capital the public are expected to pay prices that shall yield profits up to all possible limits.

If we must have a tariff—as for the present appears to be a necessity—should it not be reduced in all its schedules to the lowest limit, making those schedules bear the heavier burdens which form the luxuries of living; should not the necessities of life—the basic things—come in without tax or with the lowest possible duties? Is there practically a single industry in the country to-day which would be an infant industry (so called) and which needs protection to defend it against foreign competition? Are not American manufacturers, through brains and skill and machinery, able to compete with those of any nation? Yes, and pay wages current to-day.

Shall the continued giving of special privilege to the favored few be the basis of the forthcoming tariff? I believe no, and I believe you and your committee will say no, and that Congress will echo your no, and that the voice of the Nation will back up your emphatic no. I plead for no tariff on many essentials to daily living—iron, wool, cotton, lumber, leather, sugar, foods which are a necessity to the universal table.

I plead for a low tariff on manufactured articles which come next in the scale as supplying universal needs.

I plead for those who may not be able to speak to you face to face and voice their wants or who may not even write their thoughts, but who, nevertheless, will be vitally affected by the outcome of your deliberations.

I plead as one of millions who must toil and live under whatever tariff your wisdom shall bring to pass as law.

You have my sympathy in the perplexities which surround you; you have my encouragement in the labors which you so cheerfully take on your shoulders; you have my appreciation for the patient and painstaking and honest consideration which you are giving to the problems which confront you; and you have my firm trust and faith that you will secure justice for the average man.

With thanks for the consideration which you will give to the intent of my appeal,
Believe me, very sincerely yours,

AVERY L. RAND.

RICHMOND, VA., January 30, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman of the Committee on Ways and Means, Washington, D. C.

DEAR SIR: Every man connected with our establishment is a Democrat, and has been all his life. We are, therefore, decidedly in favor of a revision of the tariff downward; and, as far as we have been able to judge, your view as to the amount of the reduction is in accord with ours, but we are extremely anxious as to how the reduction is to be made.

This can be done beneficially, or it can be done disastrously, and, therefore, we most earnestly appeal to you to see that the method of reduction is an equitable and safe one.

On many articles the tariff is at a "dizzy height," as you know, from which position it would be extremely damaging and dangerous to descend by one step. Let us come down gradually and, so, safely.

Also, for the purpose of providing relief from the operation of any schedule that may have been erroneously adjusted, make provision for a permanent tariff commission, with authority to adjust such inevitable defects from time to time as necessity may require, and, consequently, prevent the unnecessary and paralyzing effect of a tariff agitation every time we have a general election.

One more very important point. Increase, as far as possible, the "specific rates" list, so that each item may be considered independently and upon its merits. The science of commerce has gone far beyond the "class-rate" period on tariff questions, as well as on transportation questions, and we sincerely trust that our honored legislators realize this fact.

Last, but not least, by any means, we Democrats should not forget the very unique position that our party occupies to-day. While it is true that we have both the legislative and executive departments of the Government, and the further good fortune is ours that the personality of the President-elect forces the respect of all parties, nevertheless he was elected to the Presidency by a minority vote, and we should fully recognize the danger of such a position. Our party is on trial in a most unusual way, and the whole country is watching closely the conduct of the Ways and Means Committee, and especially its honored chairman, to see if the right thing is going to be done. If a serious mistake is made in the tariff legislation about to be enacted, four years from now many lifelong Democrats in this part of the country will either stay at home on election day or vote against their party. Such a result, we believe, would be a Nationwide calamity, for it would force back again into obscurity for possibly another half century those eternal principles of equity and the protection of the rights of every class for which the Democratic Party has always stood.

Yours, very truly,

DREWRY-HUGHES CO.,
JNO. C. FREEMAN,
President and Treasurer.

AMERICAN CHAMBER OF COMMERCE IN PARIS,
Paris, February 13, 1912.

To the honorable CHAIRMAN OF THE COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

SIR: The American Chamber of Commerce in Paris, an organization of American business men incorporated under the laws of the District of Columbia, with the special object of advancing the interests of American foreign trade, is necessarily deeply interested in tariff legislation.

The chamber has, since its foundation in 1894, followed assiduously all questions relating to the tariff, and has upon every available occasion placed itself at the disposition of the departments of our Government for such information as they have desired, and has also aided in every way American commissions sent abroad to investigate tariff and other matters.

Acting in the same spirit, we beg to hand you with this a series of resolutions on the subject of specific duties, passed by the chamber on January 17, 1912.

We believe that the position taken therein and the reasons given therefor will enlist your attention, and we trust that you will give the resolutions consideration.

Respectfully, yours,

BERNARD J. SHONINGER, *President.*
WM. S. HOGAN, *Honorary Secretary.*

RESOLUTIONS RELATING TO SPECIFIC DUTIES.

AMERICAN CHAMBER OF COMMERCE IN PARIS, *Paris, January 17, 1912.*

Whereas the operation of the American tariff of 1909 has brought to light certain deficiencies in that law which have inspired a general desire for its modification, and revision of portions of the tariff is actually in progress; and

Whereas the American Chamber of Commerce in Paris, deeply interested in the equitable solution of all questions relating to the tariff, and earnestly desiring to supplement the efforts put forth in the United States to that end, believes that the principle of specific duties in contradistinction to ad valorem duties is one of the greatest importance, and, moreover, is constantly gaining advocates: Now, therefore, be it

Resolved, That the American Chamber of Commerce in Paris urge its previous recommendation of a more general substitution in the American tariff of specific for ad valorem duties, convinced by the experience of most European countries—to which it points as a demonstration—that this would result in a more simple and equitable application of duties, as well as in the practical suppression of undervaluation and other evils, and would tend to strengthen the commercial relations of the United States with all foreign countries. Be it further

Resolved, That a copy of these resolutions be sent to the American ambassador in Paris, to the chairman of the Committee on Ways and Means of the House of Representatives, to the chairman of the Committee on Finance of the United States Senate, and to important chambers of commerce and other business organizations in the United States.

BERNARD J. THONINGER, *President.*
WM. G. HOGAN, *Honorary Secretary.*

PASSAVANT & Co.,
New York, February 5, 1913.

The Hon. OSCAR W. UNDERWOOD.

DEAR SIR: Inclosed I beg to hand you a few reasons why specific duties are most necessary, stating them as concisely as possible, and ask for them your careful consideration.

I respectfully ask that in forming a new schedule for silks and velvets a specific basis may be adopted.

Very respectfully, yours,

A. W. WATSON.

NEW YORK, *February 4, 1913.*

Respectfully submitted: For the best interest of both the Government and the merchants, specific duties on silks are best. Of many reasons, the following stand out as most important:

This is a large country, both in area and importance, with many ports of entry. It is an impossibility to have appraisers sufficiently versed in values and at times of quick changes to keep properly posted.

Appraisers are poorly paid in the large ports for their services as men of painstaking work; the result is, even in the large ports, where millions of dollars' worth of goods are passed yearly, more or less imperfect, and leads to haphazard or imperfect work.

Values change continually; where goods come from the same country in different cities differences are continually occurring by reason of change and differences of prices and raw material, wages, transportation, and many other conditions.

The value of two invoices where the quality may be the same identically can show a difference of 25 to 50 per cent by reason of the different assortment of colors or styles contained in the various cases.

All foreign countries, certainly the larger ones, have adopted the specific system as most practicable.

Again, in case of intended fraud, where specific duties are in vogue, it is much more susceptible of proof.

One often hears the expression (by laymen and professional men) "staple as a black silk." As a fact, nothing is more dead in the trade than the famous gros grain of former years when they were in vogue.

The great difficulty of fixing values, with the best intentions, is a most difficult matter under the most favorable circumstances; for this reason the large buyers command large salaries.

When left in the hands of unscrupulous men, conditions are most difficult and lead to gross frauds.

Again, when merchants make contracts months ahead, as they have to frequently, by the present law they must invoice their goods at the shipment price, which may be 10 or 20 per cent higher, whereas if the market is lower they must invoice their goods at a higher price than they paid for them—a manifest injustice.

Theoretically, ad valorem is ideal; unfortunately, it has been left to weak humanity, and practice has shown the specific rates are the only way that duties may equitably be collected; all are on the same plane.

All appraisers of ports under specific rates have the same instructions, although more technical. They are not left to guesswork to make value too high or to allow them to enter too low. Specific schedules can be mastered if ordinary care is used by efficient appraisers.

The writer understands the question of the silk schedule is soon to be brought before your honorable committee, and respectfully asks that the matter above may be given favorable consideration.

HON. O. W. UNDERWOOD,

Chairman Ways and Means Committee, House of Representatives.

DEAR SIR: In reply to notice of tariff hearings, 1913, we beg to submit that wherever commodities are specifically mentioned, ad valorem duties are unsuitable and specific duties should be substituted. Three strong reasons for this immediately appear:

First. The tremendous expense of administration and of collecting ad valorem duties

Second. Advances in market values, being a burden on the public, should not involve in addition a further tax on the public by loading the customs tax; uncertainty and lack of confidence in the trade are also created.

Third. Constant violations, both technical and intentional, result. Breeding of legal infringements and multiplication of litigation are contrary to public policy and involve great and uncalled-for expenses.

We have asked the chief of the division of customs to furnish us the following figures:

1. Number of cases disputed.
2. Costs of investigating valuations.
3. Costs arising under protests and appeals.
4. Number of penalties and amount of fines.

It is too soon for us to expect reply to this inquiry.

Respectfully submitted.

McKESSON & ROBBINS.

NEW YORK CITY, January 30, 1913.

NEW YORK, January 24, 1913.

HON. OSCAR W. UNDERWOOD,

*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

DEAR SIR: Please be advised that at the recent annual convention of the National Wholesale Dry Goods Association, at the Waldorf-Astoria Hotel, New York, Thursday and Friday, January 16 and 17, 1913, the following resolutions were unanimously adopted:

"Whereas, in the judgment of the members of this association the levying of specific duties as opposed to ad valorem duties upon imported merchandise has secured an honest collection of revenue to the Government, a uniform assessment upon importers, and the protection of honest merchants against undervalued foreign merchandise: Therefore be it

"Resolved, That this association, while not suggesting that such rates be either increased or reduced, do earnestly urge upon Congress the retention of specific rates wherever levied at present, and their further application to other lines of merchandise as far as practicable; and be it further

“Resolved, That a copy of this resolution be transmitted to the Ways and Means Committee of the House of Representatives, with the request that it be made a part of the printed record of the hearings of this committee.”

Subsequent to the adoption of the resolution, the following motion was made, duly seconded, and unanimously adopted:

That “it is the sense of this meeting that we recommend to Congress the advisability of having the new tariff law go into effect July, 1, 1913, provided said law is passed prior to that date.”

May we anticipate your favorable consideration of the foregoing?

Very truly, yours,

THE NATIONAL WHOLESALE DRY GOODS ASSOCIATION,
By DOUGLAS DALLAM, *Secretary-Treasurer.*

ADMINISTRATIVE.

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ADMINISTRATIVE.

BRIEF OF W. B. REUSSER, ST. LOUIS, MO.

ST. LOUIS, MO., *December 31, 1912.*

THE WAYS AND MEANS COMMITTEE,
Washington, D. C.

GENTLEMEN: I write to suggest that in the new tariff you insert a paragraph to read as follows:

"482. That each and every imported article dutiable at compound rates under any schedule of this act, except F. & H., upon which the duty to be collected amounts to more than 75 per cent ad valorem, shall be assessed for duty at the rate of 75 per cent ad valorem (or 60 per cent or lower)."

Under the tariff act as it now stands it often happens that importers have to pay as high as 200 per cent ad valorem on merchandise. For example, paragraph 382, providing for wearing apparel "composed wholly or in part of wool," calls for a duty of 44 cents per pound and 60 per cent ad valorem. It frequently occurs that some of my German friends import or receive as presents from Germany slippers, or "pantouffles," as they are called, composed of wool felt, some of which weigh as high as 1 pound per pair and are worth only about 50 cents per pair. The duty on such a pair of slippers would be about 75 cents, or 150 per cent. The Board of General Appraisers at New York recently decided that slippers containing only 2 per cent of wool and the balance cotton are dutiable at this rate of 44 cents per pound and 60 per cent. There are often very heavy articles composed in part of wool upon which duty must be collected under either paragraph 378 or 382.

No tariff act heretofore, to my knowledge, has had such a provision as the foregoing. The present tariff contains many paragraphs with provisos to the effect that "none of the above-named articles shall pay a less rate of duty than 45 per cent ad valorem (or 50 per cent, 60 per cent, etc.)."

Your party will, therefore, have the distinction of correcting the evils mentioned.

As another illustration of this evil I will cite paragraph 17, which calls for a compound rate of 65 cents per pound and 30 per cent ad valorem, in addition, on articles composed wholly or in chief value of celluloid, and it frequently occurs that a heavy object, such as a cheap glass bottle, will be imported attached to a celluloid article, and when the celluloid part is the chief value the whole article is weighed together and duty assessed at 65 cents per pound and 30 per cent ad valorem. The duty often amounts to 200 per cent.

Then there is the pocketknife paragraph No. 152. This paragraph provides that knives valued at more than \$3 per dozen shall pay 20 cents each and 40 per cent ad valorem. A pocketknife costing say 26 cents each would have to pay a duty of 30 cents each, or 150 per cent. The same is true of the rates on scissors and razors in the same paragraph; also table and other knives in paragraph 154.

Furthermore, I would suggest that in the new tariff, paragraphs be written so that they can be understood. For example, paragraph 195, which covers "Cans, boxes, packages, etc.," is so worded that nobody can understand its meaning. Paragraph 197 provides for "Machine tools" 30 per cent ad valorem, and dealers in tools have testified in recent tariff hearings that there is no general trade understanding of the meaning of those words; so also the words "Fancy matches" in paragraph 436, and the words "Fancy or perfumed toilet soaps" in paragraph 69.

Many other paragraphs were written in such a manner as to admit of various constructions, such as the jewelry paragraph No. 448, which should be entirely rewritten. Paragraph 421, the bead paragraph, contains a proviso which should be dropped or else written so that it can be understood.

Furthermore, permit me to suggest that there are many lines of merchandise now dutiable at ad valorem rates upon which specific or pound rates should be assessed, because of the difficulty at arriving at the correct foreign-market value of same. The Government is having trouble with French and other chinaware, and it has found

it necessary to send a commission over to Europe to investigate the question. It seems to me that pound rates could be provided on this merchandise. Chinaware could be separated into various classes, such as Japanese, French, English, German, and others and assessed by weight. The woven-flax paragraph is another one which is quite troublesome, and duty should be assessed at pound rates, classifying the goods according to weight per square yard, and according to quality, whether bleached or unbleached, and whether single or double damask, etc.

Yours, very respectfully,

W. B. REUSSER,
Equitable Building, St. Louis, Mo.

P. S.—If you establish the maximum rate of 75 per cent, it would be well to except Schedules F and H, the tobacco and liquor paragraphs, upon which merchandise the duties will average more than 75 per cent. A great deal of the dissatisfaction with the present tariff is due to the fact that our foreign population, which is very large, receives thousands of parcels by mail, and otherwise, from abroad (mostly in the shape of presents), containing woollens, silks, cigars, etc., upon which the duties are very high, and if you establish a maximum or "safety valve" rate it will prevent a great deal of kicking.

BRIEF SUBMITTED BY CHARLES S. HAMLIN, BOSTON, MASS.

BOSTON, MASS., *January 11, 1913.*

HON. OSCAR W. UNDERWOOD,
*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

MY DEAR SIR: The Hon. Andrew J. Peters has requested me to send to the Ways and Means Committee any suggestions I may care to make as to the reduction of customs taxation, in connection with the hearings now being held, and it gives me pleasure to comply with his request.

To my mind, the recent elections constitute a mandate to Congress to reduce radically the present customs duties, to the end that the entry of foreign products into United States markets may be facilitated and competition with home products increased. No system of tariff reduction which does not aim at this result will comply with the expressed will of the people. It is hardly necessary, however, to add that reduction of duties will not in all cases be followed by an increase of imports, for in some industries, perhaps in many, costs are now lower than abroad; in such cases, however, the reduction of duty will serve to prevent artificial enhancement of home prices beyond the point of a reasonable profit. Such a reduction of import duties can not fail to stimulate our great and growing export trade, now burdened with tariff taxes upon many crude and partially manufactured products, thus increasing cost of production in this country. True protection of our export trade, therefore, as well as the best interests of consumers generally, demands speedy reduction in import duties.

The present time would seem to be most auspicious for this work of tariff reform. Industrial conditions now are very different from those prevailing prior to the enactment of the Wilson Tariff Act of 1894. Between the years 1890 and 1894 there was a severe industrial crisis affecting all the countries of the world and especially severe in the United States. For example, in 1893, in the United States, 158 national banks, 172 State banks, 177 private banks, and 47 savings banks failed; commercial failures increased 50 per cent in 1893 over the year 1892; in 1894, 156 railroads, constituting about one-quarter of the railroad capitalization of the United States, were in the hand of receivers; there was a startling decrease in bank deposits; bank clearings were the lowest since 1885; vast numbers of men were out of employment; in 1894 the corn crop was a failure, while the falling off in the demand of Europe for our wheat was registered by a price of less than 50 cents a bushel on the western farms. In addition to this, the Government revenues were not sufficient to pay for Government expenditures, there being a deficit for the 12 months ending September, 1892, just prior to the national elections, of over a million dollars, and while there was an excess of receipts for the fiscal year 1893 of a little over two millions of dollars, there was a deficit in the fiscal year 1894 of over \$69,000,000—all this during the operation of the McKinley Tariff Act and before the Wilson Act had been enacted.

Conditions now, however, are very different from the foregoing. At the present time we witness a general revival of business following the panic of 1907; crops are excellent; the European war uncertainties are being cleared up; speculation is reduced to an almost negligible limit; there is every indication of an easier money market; and the soundness of underlying conditions would seem to point to an era of unusual commercial development.

At the same time, however, although business is good and agricultural interests prosperous, the consumers of the country are suffering from the extraordinary increase in the cost of living, for which the only immediate remedy, at least as to all those dependent upon fixed incomes, whether represented by daily toil or by past accumulations, would appear to be a thorough, radical revision of customs taxation.

Reserving for another communication the consideration of the proper measure of reduction, I want, in this letter, briefly to point out certain other changes which, in my opinion, should be made, concurrently with the reduction in taxation, and by which the administration of the new tariff law may be greatly simplified and made more efficient.

1. REFUNDS OF DUTIES.

In my opinion, a change should be made in the law providing for the refund to importers of duties collected by the Treasury which are held subsequently by the Board of General Appraisers or by the courts to have been in excess of the lawful rate. I believe that an investigation would show that in a great majority of these cases the importers have received the full amount of the excess duty paid in the price which they received from the sale in this country of the imported articles. Under such circumstances refunds of duties amount to pure gratuities, which belong, in equity and good conscience, to the consumers who ultimately had to pay them rather than to the importers who merely advanced the amount to the Government and have been repaid by the consumers.

A good illustration of this arose under the tariff act of 1883, which imposed a duty of 50 per cent on manufactures of silk, while under another section it imposed a duty of only 20 per cent upon hat trimmings. Thereupon immense quantities of silk goods were imported under the designation of hat trimmings in order to obtain the benefit of the lower duty, including not only goods which were commercially known as hat trimmings in the condition in which imported, but also goods in bales which could be, and were in fact, used for many other purposes, such as dresses, shoe ties, coffin linings, etc. The Treasury held that the legal duty on these importations was 50 per cent *ad valorem* as manufactures of silk. The importers protested, but had to pay the 50 per cent duty instead of the 20 per cent which they claimed to be the lawful rate. The matter finally reached the Supreme Court of the United States, and under its decisions refunds of large amounts were paid. Later these refunds were suspended by the Treasury Department—for reasons which I shall not now undertake to explain—and between the years 1893 and 1897 practically no refunds were paid. Many suits, however, were pending, and years later, in 1904, the Treasury entered into a compromise with the importers by which about \$3,000,000 were refunded, which, added to refunds already paid, made total refunds probably of six or seven millions of dollars. As before stated, I believe it to be a fair assumption that in the vast majority of these cases these refunds were pure gratuities, as the importers in all probability received in the price of the goods, when finally sold, the amount of the excess duties levied by the Treasury.

I would respectfully suggest that Congress should enact a law providing that hereafter no refunds should be made to importers of duties found later to have been above the legal rate unless the importer can prove that these excess duties have not already been paid back to him in the price at which the goods were finally sold for consumption. If such a law were enacted it would do away with much customs litigation, but it would always be open to an importer to invoke the jurisdiction of the Board of General Appraisers and of the courts for the purpose of finding what the legal rate of duty should be upon future importations. It might also be just to provide that where the importer wins his suit, but can not prove that he has not received the excess duties in the price which he obtained for the goods, the court may allow him a reasonable sum for costs and attorney's fees. It may well be that many difficulties of proof will arise in carrying out such a law, but nevertheless it would seem both just and equitable to require proof from a claimant that the amount claimed has not already been paid him by the ultimate consumer.

A precedent for such a suggested law will be found in the act of February 1, 1909, which authorized the Treasury to refund all duties collected on anthracite coal imported between the dates of October 6, 1902, and January 15, 1903, but which also contained the following significant limitation:

"Provided, That the person or persons so to be paid shall produce satisfactory proof to the Secretary of the Treasury that they were not reimbursed for said tariffs in the sales to the consumer."

2. REPORTS OF REFUNDS TO CONGRESS.

I would also suggest that section 28, subsection 23, of the tariff act of August 5, 1909, should in the future be complied with by the Treasury Department. This provision of the law directs the Secretary of the Treasury each year, in his annual report, to transmit to Congress a detailed statement of all customs duties refunded to importers, together with copies of the rulings under which said refunds were made. This law was first enacted in the act of March 3, 1875, and was reenacted in the customs administrative act of 1890 and appears in the tariff act of 1909, hereinbefore quoted.

The Secretary of the Treasury, in a letter to the Speaker of the House, dated March 7, 1912 (Doc. No. 610), stated that the annual statements under this provision of law have not in the past been complete, for the reason that at ports having separate accounting officers, known as naval officers—at which ports 90 per cent of the customs duties is collected—only refunds based upon court decisions are reported to the Treasury, and that refunds based upon decisions of the Board of General Appraisers, upon rulings of the Treasury Department, and upon rulings of collectors under article 1072 of the Customs Regulations of 1908, authorizing collectors to reliquidate entries where satisfied that protests are well taken, without referring the same for decision to the Board of General Appraisers, are not reported.

Inasmuch as the Secretary further points out that the refunds made under court decisions are almost negligible as compared with the total amount of refunds, it would seem to follow, as the Secretary expressly states, that these reports to Congress are misleading, as they include only a very small portion of the total refunds actually made.

The Secretary also calls attention to the fact that it has been the practice since 1875 under the before-mentioned law, to omit reference to decisions made by the Treasury, the Board of General Appraisers, and by the courts which have been already reported to Congress in previous reports, and that this omission is a failure to comply with the letter of the law.

The Secretary finally, in said letter, expresses the opinion that—in view of the cost involved of making a complete report as called for by the law, and of the fact that the information is all contained in the records at the respective ports, and of the further fact that all decisions of the Board of General Appraisers and of the courts are published by the Treasury—a separate report to Congress of the refunds and decisions under which they were made is unnecessary, and he recommends the repeal of the law requiring such reports.

With the greatest respect for the Secretary of the Treasury, and fully appreciating his earnest desire for and successful accomplishment of many valuable reforms, I venture to express the opinion that it is vitally important for Congress to have at hand in a simple, concise form an annual statement showing all refunds made and distinguishing clearly between refunds based upon court decisions, decisions of the Board of General Appraisers, rulings of the department, and rulings of collectors, and that, while the existing law may well be modified along the lines of simplicity and brevity, these reports should not be discontinued but should be transmitted annually to Congress, so that the various items may be published and not left buried in the archives of the various ports.

3. AD VALOREM DUTIES.

It must be apparent that one important change in existing law will be made by Congress, and that is a general substitution of ad valorem duties for the specific and compound duties of the present tariff act. This change is a radical one and will require most careful treatment both from the legislative and administrative side.

I believe that a change from specific and compound duties to purely ad valorem duties is both advisable and practicable—advisable, because tending to uniformly and simplicity and at the same time showing exactly what the tax is which is being imposed; practicable in that such duties can be honestly and efficiently collected.

The objection will at once be raised that such a system, if extended greatly, will break down because of undervaluation. If, however, a complete history of the frauds upon the revenue could be written, we should witness, in my opinion, a close race for supremacy between those frauds which have grown out of evasion of specific duties at home and those arising from undervaluations abroad.

Be that as it may, however, it must be apparent that a tariff act substituting generally ad valorem for specific duties will call for extraordinary and increased vigilance of administrative officers, for vigorous and relentless war upon undervaluations of every kind, and perhaps for some changes in the existing administrative laws.

In the administration of the customs laws, no question either of policy or expediency can ever properly arise. While in the determination of a tariff act many such questions have been in the past and perhaps always will be involved, yet when the rates

of duty are finally fixed, they should be enforced by the administrative officers absolutely and exactly in compliance with the law as enacted by Congress. We should welcome, therefore, the most careful investigation into the workings of the present administrative act with a view to securing any changes needed to enable the administrative officers to collect duties upon the full market value of imported products. Such effective administration will be absolutely necessary to secure the large revenue needed for the support of the Government and a material portion of which must be raised by customs taxation.

It must, however, be frankly conceded that in extending the ad valorem principle we must be prepared to grapple with attempted undervaluation, and, moreover, that as to certain commodities it is often very difficult to ascertain just what the foreign values are even with the best intent on the part of the vast majority of the importers and of all of the administrative officers. The efficiency of our appraising system, however, has been greatly increased in past years, and I believe that the problem can be satisfactorily solved with perhaps some changes in the administrative law.

Among possible changes in, or rather additions to, said law, I would suggest that the President be requested to open negotiations with foreign countries to obtain legislation abroad authorizing our consuls to administer oaths to consular invoices and making false statements under oaths, so administered, punishable as perjury by the laws of said foreign nations. This is now provided for by the laws of some countries.

4. UNIFORM AD VALOREM DUTIES.

I would also respectfully suggest that a law be enacted dividing all imports into a small number of classes, with a uniform ad valorem duty for each class, following the general lines of the Walker tariff of 1846, with the addition of a free list. Such a classification would not only avoid the many legal questions arising from varying specific duties based upon values, but would also make the tariff law simple and concise in place of present intricacies and voluminousness.

If such a classification be established as a final goal of customs taxation, Congress could then determine whether, in its judgment, that goal should be reached by one or by several successive reductions.

I feel, however, that it is of the highest importance in making these reductions to adopt the policy of a short postponement of the date of reduction, in order to protect existing stocks of goods which have been imported at the higher duties prevailing under the present act. A precedent for such a course will be found in the Wilson Tariff Act, which provided that the reductions therein made on manufactures of wool should not take effect until January 1, 1895, some four months after the date on which the act became effective.

5. NECESSITY FOR AMPLE REVENUE.

In framing a new tariff act I would also impress upon your committee the necessity of providing for ample revenue, inasmuch as it is almost a certainty that, pending the discussion of any new act, customs duties will fall off largely, and, furthermore, that a considerable period of time will probably elapse before the revenue-producing qualities of the new bill may be clearly demonstrated. To this end I would suggest that authority be given to the President to reimpose the so-called stamp duties if the occasion arises for increased revenue. It would seem to me much more satisfactory to obtain a temporary increase of revenue from taxation rather than from the issue of bonds under the act of June 13, 1898.

The necessity for some source of temporary income to tide over a temporary falling off of revenue will be realized when it is considered that customs duties declined from \$199,000,000 in the year 1893, to \$149,000,000 in the year 1895. I firmly believe, however, that the Wilson Tariff Act, even apart from the income tax, under normal conditions, would ultimately have yielded its proportionate share of the revenues of the United States.

If the proposed amendment to the Constitution of the United States, authorizing an income tax without apportionment, be ratified in time to provide the necessary revenue, the imposition of stamp duties would not be needed, but I would suggest the advisability of giving the power to impose them, even if that power never has to be exercised.

The necessity of raising a large amount of revenue from customs taxation will probably always be with us even with an income tax and stamp taxes. This will be realized when it is considered that the annual ordinary expenses of the Government have increased from an average of \$357,000,000 during the operation of the tariff of 1894, to an average of \$655,000,000 during the operation of the tariff of 1909, the expense per capita increasing in those periods from \$5.09 to \$7.13.

I must apologize for the length of this letter, but I send it to your committee for what it is worth, feeling sure that you will welcome expressions of opinion on the vital question of reduction of customs taxation and will give them such consideration as they may seem to you to deserve.

Very respectfully, yours,

CHARLES S. HAMLIN.

UNDERVALUATIONS AND DUMPING DUTY.

Boston, January 15, 1913.

To the Committee on Ways and Means, House of Representatives, Washington, D. C.

GENTLEMEN: On behalf of American manufacturers engaged in many different lines of business and representing a total investment of many millions of dollars, and in the interest of all American manufacturers and producers, I wish to call the attention of the committee to a matter of the greatest importance, both from a revenue standpoint and from the standpoint of such manufacturers and producers as receive incidental protection from the tariff, whether as a protective or as a revenue measure. I ask that an amendment be made to the administrative act of the tariff for the purpose of preventing undervaluations and in order to prevent the unloading by foreign manufacturers and producers from time to time of large quantities of articles of foreign manufacture or production at prices far below the normal prices of such articles for home consumption in the foreign countries.

ALL AMERICAN MANUFACTURERS ARE INTERESTED.

Such a duty, otherwise known as a dumping duty, has been referred to from time to time during the hearings by manufacturers and producers representing a wide variety of interests, and many of them have requested the committee to adopt such an amendment. It is a matter in which all are interested who make or produce goods in which there is any foreign competition, and the effect of such a duty is not to increase the incidental protection intended to be afforded to the American manufacturer or producer, but merely to insure to him the exact amount deemed fair for the time being.

IMPORTANT FROM A REVENUE STANDPOINT.

It is likewise a matter of particular interest to the Government from a revenue standpoint, for calculations of revenue to be produced can not be accurate if foreign shippers are permitted to send in their goods at figures far below the normal valuations. This is particularly important in connection with the present revision, if the committee intends, as I understand it does, to reduce most of the rates to an ad valorem basis.

THE PURPOSE OF SUCH SHIPMENTS.

That such undervalued shipments are made constantly is well known to all manufacturers, and their purpose is obvious. It is of vital importance for a manufacturer to keep down his costs by keeping his factory in constant operation; it is likewise necessary to keep his labor together, whether skilled or unskilled, but of particular importance with skilled labor, for once sent afeld by a shutdown it is expensive and often impossible to get such labor back; furthermore, the home market must be sustained, if possible, at a figure that will yield at least a working profit on the capital invested. As a result, if the home market is supplied, it is a positive necessity and a real economy to keep the factory operating and send the surplus goods over and above the amount sufficient to supply the home market to other countries and at such prices as can be obtained. If the home market can thereby be preserved, the goods can be sold at a figure no greater than the actual cost of materials and labor in the particular goods and oftentimes it is an economy to sell them if necessary for an even lower figure.

THE EFFECT OF SUCH SHIPMENTS.

The United States offers a splendid dumping ground for such surplus production, and the practice of making such shipments is becoming more and more common. It is clear that by reason of this the Government is deprived of the revenue contemplated by the framers of the tariff act, whose figures and estimates are based on the revenue to be produced by the rates as assessed on the normal foreign value of the goods, and that the American producers are deprived of the incidental protection that would normally be afforded them by the rates of duty established and which it was contemplated they should have.

WOULD PREVENT UNDERVALUATIONS.

Furthermore, the introduction of such a provision would help to prevent fraudulent undervaluations, the prevalence of which has been all too common in recent years, for it would make the fair market value for home consumption in the country of shipment the test and destroy the efficacy of fraudulent invoices.

IN OPERATION IN CANADA.

As the committee undoubtedly well knows, such a provision has been operative in Canada for many years and has worked most satisfactorily, and I understand that similar provisions are in force in certain European countries as well.

SUGGESTED AMENDMENT.

I would suggest that a new section be added to the administrative act, modeled upon the provision now in force in Canada and somewhat in the following form:

(1) "That whenever articles are exported to the United States of a class or kind made or produced in the United States, if the export or actual selling price to an importer in the United States, or the price at which such goods are consigned, is less than the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to the United States at the time of its exportation to the United States, there shall, in addition to the duties otherwise established, be levied, collected, and paid on such article, on its importation into the United States, a special duty (or dumping duty) equal to the difference between the said export or actual selling price of the article for export or the price at which such goods are consigned and the said fair market value thereof for home consumption: *Provided*, That the said special duty shall not exceed 15 per cent ad valorem in any case and that goods whereon the duties otherwise established are equal to 50 per cent ad valorem shall be exempt from such special duty."

(2) "Export price" or "selling price" or "price at which such goods are consigned" in this section shall be held to mean and include the exporter's price for the goods, exclusive of all charges thereon after their shipment from the place whence exported directly to the United States.

(3) The Secretary of the Treasury shall make such regulations as are necessary for the carrying out of the provisions of this section and for the enforcement thereof.

SUCH SHIPMENTS ARE NOW BEING MADE.

I urge the adoption of this amendment because from time to time I have been advised of shipments of articles to this country invoiced at far below their market value for home consumption in the countries of export, and in such instances duty has, of course, been paid only on the invoice price. The effect of such transaction both upon the revenue of the Government and upon the American manufacturer is exactly the same whether or not the goods were fraudulently undervalued. Such shipments would not be prevented by the adoption of a dumping duty, but the Government would thereafter receive the proper revenue and the American manufacturer would receive the incidental protection intended to be afforded him.

Respectfully submitted.

JOSEPH O. PROCTER, Jr.

MANUFACTURING CHEMISTS' ASSOCIATION OF THE UNITED STATES,
January 31, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: The Manufacturing Chemists' Association of the United States has already called to the attention of your committee the question of the so-called "dumping duty" as a part of its brief filed under Schedule A.

The association believes the subject to be of such vital importance that it again desires to raise the question for your consideration in connection with the administrative features of the tariff act.

Although it is a subject which affects all American manufacturers in some degree, it is of peculiar concern to the chemical industry. It is generally known that the surplus product of foreign chemical manufacturers is unloaded or dumped into this country at prices far below the foreign market price and far below any price at which domestic producers can possibly compete. This fact is recognized in the "Report on Schedule A" filed by your committee at the last session of Congress.

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It is further generally known that articles imported into this country and subject to an ad valorem duty are oftentimes invoiced at much less than their real or market value in the country of export. This, again, is peculiarly true of the chemical industry. A direct effect of the imposition of an adequate dumping duty would be to prevent fraudulent undervaluations, as the test of value would be the fair market price for home consumption in the country of export.

In brief, the effect of the insertion of a "dumping" clause into our tariff laws would be:

(1) To insure the collection of revenue on the basis of the rates fixed by Congress as adequate.

(2) To prevent unfair competition on the part of foreign manufacturers.

(3) To give American manufacturers equal opportunity of competition with manufacturers in those countries which already maintain "dumping" duties.

(4) To prevent fraudulent undervaluations and consequent loss of revenue to the Government.

In this connection the association calls attention to section 6 of the Canadian customs tariff act of 1907, which provides as follows:

"In the case of articles exported to Canada of a class or kind made or produced in Canada, if the export or actual selling price to an importer in Canada is less than the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to Canada at the time of its exportation to Canada, there shall, in addition to the duties otherwise established, be levied, collected, and paid on such article, on its importation into Canada, a special duty (or dumping duty) equal to the difference between the said selling price of the article for export and the said fair market value thereof for home consumption; and such special duty (or dumping duty) shall be levied, collected, and paid on such article, although it is not otherwise dutiable: *Provided*, That the said special duty shall not exceed 15 per cent ad valorem in any case."

Respectfully submitted.

HENRY HOWARD, *Chairman Executive Committee.*

MAXIMUM AND MINIMUM.

STATEMENT SUBMITTED BY LOUISVILLE COTTON OIL CO.

LOUISVILLE, KY., April 26, 1912.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

SIR: We wish to solicit your particular interest and valuable assistance in a matter of vital importance to the cottonseed oil industry of the United States.

As you are undoubtedly aware, the Department of State has been in negotiation with the Austro-Hungarian Government for the past six years to endeavor to secure a compatible reduction in the Austrian tariff governing import duties on cottonseed-oil products, which, upon revision of that tariff, effective in March, 1906, was raised from 9.52 kronen to 40 kronen per 100 kilos, thereby closing entirely one of the most important outlets for American cottonseed oils. In order to judge of the importance of the Austrian markets for this industry, would state that in a single year the exports from the United States to Austria fell from 150,000 to a few hundred barrels. It is to be emphasized that not a single barrel will be imported, neither in Austria nor in Hungary, for the above reasons explained, while during the year 1905 the year previous to the increase, the port of Trieste itself had imported 23,087,800 kilos of cottonseed oil, worth about \$2,500,000. Other comestible oils, which compete with cottonseed oil, and which are manufactured in Europe, enter Austria at duties ranging from 4 to 15 kronen per 100 kilos. Olive oil, imported from Italy, Turkey, Greece, Spain, and other countries, is paying a duty of only 4 kronen per 100 kilos. The duty imposed on cottonseed oil, therefore, must be considered prohibitive, and the entire action discriminating.

While we have no doubt that the Department of State, through its negotiations with the Austro-Hungarian Government, and also Ambassador Kerens, are using their best endeavors to secure the desired result, the fact remains that in the course of six long years no definite progress in the matter has been made, and although we understand that the Parliaments of Austria and Hungary would consent to a reduction in this arbitrary rate of duty from 40 kronen to 24 kronen per 100 kilos, such a reduction would be just as ineffective as the present exorbitant rate of 40 kronen, as on that

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basis business would be just as impossible as under the present circumstances. In fact any rate in excess of 15 kronen per 100 kilos would not relieve the present situation in any particular.

The point we wish to impress upon you quite particularly is the fact that in the 6 years which have passed since the enforcement of this prohibitive tariff, the production of cottonseed-oil products in the United States has so materially increased over previous years that it is only natural to assume the business which could have been done with those markets during this period would have been considerably larger.

The conditions as prevailing at the present time do not affect the American oil producer alone, but the entire industry, down to the planter who raises the cotton.

We are reliably informed that there are 30,000,000 acres planted to cotton in the United States. The crops during the interim have been very important, namely: 1906-7, 13,510,982 bales; 1907-8, 11,571,966; 1908-9, 13,825,457; 1909-10, 10,609,668; 1910-11, 12,120,095; 1911-12, 16,000,000 of 500 pounds each. Considering that a bale of upland cotton will yield 35 per cent in fiber and 65 per cent in seed, and sea-island cotton 25 per cent fiber and 75 per cent seed, the importance of the cottonseed-oil industry will readily be recognized. Also, roughly estimated, there are \$80,000,000 invested in oil-mill establishments and refineries, requiring approximately twice that amount for operation. The importance of the industry can no longer be overlooked or underestimated, and would appear entitled to considerable consideration at the hands of the administration, and in our opinion a more strenuous effort would be deemed necessary to relieve the situation under which this industry has been suffering for the past six years.

Viewing the situation from a somewhat broader point of view, it would appear that the foreign powers have recognized readily the importance of this industry, and are discriminating largely against same, and in order to substantiate our statement would recall that cottonseed oil is not permitted entrance into Spain without being denatured, and thus rendered unfit for edible use. The duty, though high, is not prohibitive if the importation of pure oil were allowed. This stringent measure against the importation of foreign comestible oil into Spain was adopted sometime ago to safeguard the olive oil of that country from adulteration, so that it would have the confidence of the trade, but the adoption of pure-food laws in many countries, prohibiting the labeling of mixed oil as olive oil has led the trade to look to its own, rather than to the country from which the oil comes, to prevent adulteration. France now levies a duty of 12 francs per 100 kilos on American cottonseed oil, an increase over the old rate of about one-half cent per pound. The country is a heavy consumer of comestible oils, and when a shortage in the olive crop necessitates the use of cottonseed oil, which will frequently happen, the advance in the duty will probably not keep it out of the country. In Italy nonedible cottonseed oil is taxed the same duty as edible grades, whereas other soap-making products, such as palm oil, are on the free list. In Greece agitation by the olive-oil interests led to the imposition of a duty of 100 drachmas per 100 kilos on American cottonseed oil, and only in February, 1910, through the successful efforts of the American minister, the duty was reduced to 30 drachmas per 100 kilos, and although this duty is not prohibitive it handicaps trading with that country materially. In Serbia we understand a petition has been presented to the Government, asking a reduction of the duty on cottonseed oil from 25 to 18 francs per 100 kilos, the latter being the duty enjoyed by competing comestible oils, and the matter is still under consideration. Before cottonseed oil can be imported into Bulgaria it must be denatured, and even in that form it is dutiable at 15 francs per 100 kilos, while the duty on competitive oils, such as peanut, sunflower, and olive oil, is only 10 francs.

We also understand that samples of cottonseed oil were forwarded to the supreme sanitary council, whose sanction is necessary in changing the regulations, and everything seemed favorable for a speedy change, but the council refused its sanction, abiding by the decision of the same board 10 years ago, which decreed that cottonseed oil was unwholesome and should not be permitted to enter Bulgaria as an edible product.

In Roumania the duty on comestible oils, including cottonseed oil, and excepting olive oil, is 30 francs per 100 kilos, while olive oil enjoys a duty of only 5 francs per 100 kilos. This is a serious handicap to cottonseed oil.

Although it appears from the above that the American cottonseed-oil industry has been made the target of the nations of the world for discrimination and exploitation, this industry has assumed tremendous proportions, one could say, in spite of such discrimination, not alone in our home markets, but in all foreign market centers. This fact, however, we believe should not be considered a reason for inactivity on the part of our administration in relieving such an unjustified situation.

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All of which tends to show the discrimination by foreign governments against an American industry of prime importance.

As far as the question affecting Austria-Hungary in particular is concerned, would say the Austrian mills do not provide enough oil to supply the home demand, while the duty on cottonseed oil is several times higher than is necessary to give protection to these mills. The oil consumption is limited now to sesame, arachides, rapeseed, and linseed oils, manufactured in Austria-Hungary, besides olive oil imported from Mediterranean countries, and the Levant, and which, as already stated, enjoys a duty of only 4 kronen per 100 kilos gross.

We aim to solicit the particular interest of the Departments of State and Commerce and Labor and the tariff commission and the Ways and Means Committee in order to devise an effective way by proper cooperation to secure the much needed prompt action and quick result. We feel safe in stating that if the results of the present negotiations will provide for a sufficient reduction of the duty that the rate agreed upon will permit of the importation of American cottonseed-oil products into Austria-Hungary those markets will certainly regain their former importance.

If, in this connection, we may be permitted to venture an opinion, would say that in our minds one of the following methods would present the shortest and most effective way of arriving at the desired result: Either the adoption of the President's recommendation to Congress for such changes to section No. 2 (the retaliatory clause) of the tariff as would permit the Executive, in cases of discrimination against American commodities, which, while serious enough to the industry which they affect, do not nevertheless appear to justify upsetting of trade relations between the United States and the offending country; to select one or more important articles of export from the discriminating country for penalization, by way of additional duty, or a reciprocal reduction in our own tariff, governing imports of one of the principal Austrian commodities of export to the United States sufficient to induce the Parliaments of Austria and Hungary to meet the requests of our Government in the cottonseed-oil controversy.

We trust that you will recognize the urgent need of the industry for speedy relief from the difficulty and will use your personal influence and that of your office to secure a favorable solution in a not distant future.

We are, sir, very respectfully,

LOUISVILLE COTTON OIL CO.
By J. J. CAFFEY, *President*.

STATEMENT SUBMITTED BY ACHILLE STARACE, NEW YORK CITY.

NEW YORK, *January 8, 1913.*

COMMITTEE ON WAYS AND MEANS,
Washington, D. C.

GENTLEMEN: I have the pleasure to acknowledge receipt of your esteemed favor dated December 31, 1912, and in obedience to your kind request I would supplement my previous arguments in support of my recommendation to abolish the maximum and minimum clause in our tariff law by stating that same is economically wrong; it is neither logical nor practical. Evidently it is a theory that can not serve any good purpose, being at most a threat of little value. In fact, it has never been enforced, and undoubtedly is difficult if not impossible of application, as shown in the controversy with Germany on potash, with France on the ceramic matter, and with Canada on the wood-pulp question.

Furthermore, should the Government attempt to enforce the maximum rates with a country that may in some instances appear to discriminate against the United States, even if on goods that may not directly affect our business, or should any nation through legislation dictated by their interests or by a special agreement, for a valuable consideration, grant some concessions to another country, it will be seen that in each case, first, it would not warrant us to go into a rate war with an otherwise friendly power, and secondly, it would not seem right or equitable that we should demand the same privilege or benefit and, if not accorded, to jeopardize not only our friendly relations, but also to impose a burden on our own people, because in such an event we can not but expect full retaliation to the detriment of our own commerce as regards the imports from and the exports to that country.

The maximum clause is something new in the history of the American tariff laws, and evidently was inserted in the last Payne Act as a substitute for reciprocity; but, as above demonstrated, it has not proved its equal, particularly that the foreign countries who do not look favorably upon such coercion or said method of imposition

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can continue to charge a high tax or raise their tariff on goods which are the exclusive production of the United States without incurring the penalty of 25 per cent on their own exports to the United States.

In order to obviate similar occurrences, to avoid friction, to foster our exports, and to get the benefit of those goods that may offer advantages for our consumption, I believe it would be preferable to repeal the maximum and minimum clause in our tariff and substitute therefor the privilege of entering into commercial treaties with any nation with a view of securing reciprocal trade and in exchange for concessions deemed to be for the interests of the United States to provide an equivalent or adequate reduction, say, not to exceed 50 per cent of the duties imposed by our general tariff act, on goods imported by us, to be designated in every case and for a stated period, say, five years. I remain,

Yours, very truly,

ACHILLE STARACE,
Commission Merchant.

[Editorial from New York Herald Dec. 30, 1912.]

THE WORKINGMAN'S BREAKFAST.

Vast is the amount of forensic eloquence devoted by candidates for office to the pleasing topic of the workingman's breakfast. During the late, but not lamented, presidential campaign we heard a great deal on this subject, the sum and substance of the hue and cry being that the protective tariff is responsible for the high cost of living in all its manifold phases.

That there are some other causes than the protective tariff, and causes that have more direct influence, is revealed in a suit instituted by the Federal authorities against certain manufacturers of breakfast food who are charged with imposing upon dealers restrictions which prevent the selling of their product below a fixed price. How much there is of this practice and how serious the burden it imposes upon the consumer will doubtless be shown when the case comes for trial, but if the allegations of the Department of Justice are true then surely here is extra cost added to the workman's breakfast for which the tariff can be in no sense responsible.

[Letter published by New York Herald Jan. 1, 1913.]

TAX ON BREAKFAST.

To the EDITOR OF THE HERALD:

I read with interest your editorial in to-day's issue entitled "The workingman's breakfast," and while it is indubitably true that there are some other causes than the protective tariff responsible for the high cost of living, did it not occur to you that in the particular case cited, which is no exception to the rule, it is made possible to enhance the value and indirectly tax the workingman's breakfast by the very fact that duty is charged on agricultural products, such as buckwheat, corn, corn meal, oatmeal, rolled oats, rice, rye, wheat, wheat flour, semolina, biscuits, bread, wafers, or any kind of flour or meal, showing the absurdity of levying duties on the foreign goods?

ACHILLE STARACE.

NEW YORK, December 30, 1912.

STATEMENT OF R. TYNES SMITH, BALTIMORE, MD.

COMMITTEE OF WAYS AND MEANS,
House of Representatives, Washington, D. C.

If, in the case of any country or dependency of any country having independent control of its own fiscal affairs, it can be shown to the satisfaction of the President that not less than 50 per cent of the importations consist of the domestic products of the United States, the President shall, by proclamation, grant such country or dependency of a country, a reduction of 50 per cent of the regular tariff rates on the domestic productions of such country or dependency of a country when imported direct into the United States, provided there be no export duties levied on such products.

Respectfully suggested for consideration.

JANUARY 20, 1913.

R. TYNES SMITH,
607 American Building, Baltimore, Md.

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STATEMENT OF HON. WILLIAM E. HUMPHREY, A REPRESENTATIVE FROM THE STATE OF WASHINGTON.

Mr. HUMPHREY. On this map I want to call the committee's attention to the location of Tacoma, Seattle, and Vancouver, and then I am through with the map. All of the vessels coming into the Strait of Juan de Fuca come to this common point here and go north from this point to Vancouver, situated here [indicating on map]. They come south down to Seattle and to Tacoma, and it is almost exactly the same distance from this common point to Vancouver [indicating], and it is a little bit farther down to Tacoma.

The harbor facilities of these cities are perhaps unsurpassed in the world. There is no question about the shipping facilities of either of these places, they rest in that respect upon the same foundation. And I want, while I am here, to call the committee's attention to the further fact that the Great Northern Railroad and the Northern Pacific Railroad have their terminals at Vancouver; the Southern Pacific is now building to Vancouver from Seattle, and the Milwaukee Road, it is understood, has secured terminals also at Vancouver. And the Great Northern Railroad line reaches Spokane, the Northern Pacific runs to Spokane. That is all I care to refer to upon the map. The proposition I want to present to you is the situation that Seattle, Tacoma, and the other Puget Sound ports are going to be placed in with reference to the foreign tonnage of the world unless they are given some advantage in this bill or otherwise.

Mr. PETERS. Those three ports have the same depth of channel?

Mr. HUMPHREY. They are practically the same. They all have depth of water enough; in fact, the depth of water is really a detriment. We have been filling up the harbor at Seattle, as you probably know, and at Tacoma the water is so deep that they have not the courage to commence. So there is no question about shipping facilities there. The three places are practically even in that respect.

Mr. HARRISON. Is not your chief difficulty that President Polk did not stand up to his campaign cry of "54-40-or fight"?

Mr. HUMPHREY. I think he made a great mistake. Now, here is the situation. We have not been troubled with it to any great extent, because the voyage around the Horn is so great. There has been practically no shipping—there has been some, but you might say it is negligible—but as soon as the Panama Canal is opened a foreign ship may go into New York and take a cargo of steel, we will say, which is one of the products we use very much on Puget Sound that comes from the East Coast, or take a cargo of any American product, go through the Panama Canal, go up to Vancouver and distribute that cargo to any place in the United States without the payment of one cent of duty. In other words, Vancouver, under the laws that exist to-day, gets the advantage of our coastwise laws, or, to put it in another way, we are at a disadvantage; they have the use of all that foreign tonnage which is prohibited to Seattle and Tacoma and the other Puget Sound ports. Or, in other words, we are in exactly this position, gentlemen: Suppose I would come before this committee and say, "Tacoma and Seattle are rivals;

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Tacoma is just a few miles below Seattle, and I ask this committee to so draw this law, because we are rivals, that Seattle may have the benefit of all the tonnage of the world, and that Tacoma shall only be permitted the use of ships in the coastwise trade." That is exactly the position we stand in to-day. I would be looked upon as a lunatic to come before this committee with such a proposition. The only difference is that if the law remains as it is to-day that advantage is given to a foreign city as against the cities of Puget Sound and also, to some extent, Portland.

The CHAIRMAN. That makes it appear as though the coastwise shipping law is a very iniquitous proposition.

Mr. HUMPHREY. I do not want to get into a discussion about the wisdom of the coastwise laws, although, as the chairman knows, I am never backward in talking upon that proposition. But I hardly think that is the question that is involved here, because what we are asking is that, whether it is iniquitous or not, we be treated the same as other portions of the United States are treated.

Owing to our geographical position the city of Vancouver is able to evade the coastwise laws, and I want to give you some history which, I think, throws some light upon the proposition as to how quickly we have been ready, when it affected any other portion of the country, to change the coastwise laws. In 1866 it was called to our attention that Canada was evading this to a certain extent, and we immediately amended our laws and stopped that. Then about 1902, I think it was, perhaps it was earlier, or anyway it was about that time, some man had an inspiration, and he took a shipload of products from New York over to Antwerp, and then in Antwerp he placed the products in another foreign vessel and took it around to San Francisco. Then we immediately amended our laws. When we found that a man was taking goods to Europe and then back around the Horn to San Francisco we amended the law at once and stopped that.

Then, upon the discovery of gold in Alaska it was discovered that the British were again taking advantage of a loophole and were carrying some of the traffic to Alaska in British ships, and we again amended it, and my distinguished friend, Mr. Payne, had charge of that bill, and yesterday I took occasion to read the debate in relation to it. All that seemed necessary was to make a statement about the facts. In the Senate it passed by unanimous consent, and in the House it was opposed by only one man, a Mr. Terry, from Arkansas; after debate it passed by 83 to 3. So it shows we have always immediately closed up these places when we have discovered them. Now, if one of these British ships were to stop at Vancouver and unload its cargo and attempt to bring it to Seattle by another vessel it would be stopped immediately, because that is in violation of the law. But if they go to Vancouver and unload it there, after having carried it all this vast distance in a foreign ship, they can put it upon a railroad and by using the railroad evade our laws and come into any part of our country. Now, gentlemen, I think the very statement of the facts shows the condition we are in. They have every shipping facility we have. If you give them the benefit of this foreign tonnage you are going to place the lumber manufacturer and fish producer of British

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Columbia in an advantageous position. You are giving them an advantage that we can not possibly meet.

Now, regardless of the wisdom of the coastwise laws, is it a fair proposition, because we are so geographically situated, to permit them to take advantage of us in that way. The courts have decided—and I will not take the time to read from the book I have here, having brought it along fearing some question might arise—that it is a clear evasion of the coastwise laws, and all we ask is that we be treated upon the Pacific Northwest just the same as the other portions of the United States are treated.

Mr. PETERS. What about the effect of canal tolls upon the situation?

Mr. HUMPHREY. That helps us to that extent, but the canal tolls will not begin to equal the difference in the freight rates. We still have a little protection in the way of the tariff; we have always had that protection in the way of some little tariff on lumber, but if that is taken off then all that is left will be the canal tolls, and they are much smaller than the difference in the rates would be.

The CHAIRMAN. Mr. Humphrey, what you are asking this committee to do is, when American goods go into Vancouver or Canada, to amend our laws so that, notwithstanding the fact that they are American goods coming back into America, they shall pay a tariff duty?

Mr. HUMPHREY. Yes.

The CHAIRMAN. That is what you are asking?

Mr. HUMPHREY. That is the proposition.

The CHAIRMAN. Of course, you recognize the fact that any law which we may pass involving taxation must be uniform? We must make it apply to everybody and everything, whereas you want us to make a law that will apply to Tacoma and Seattle?

Mr. HUMPHREY. No; I am not asking that.

The CHAIRMAN. If we should pass the law that you ask, that when American goods leave American territory, go into Canada, and are returned into America they pay a duty, we would have to apply it all along the Canadian line, and in that case when a cargo of goods left New England and had the privilege of going to Detroit, say, by the New York Central or by the connecting lines through the Grand Trunk into Canada, we would eliminate any competition by rail, if we passed this law, between the people of New England, Detroit, and the West, and between the Grand Trunk Railroad and the New York Central, or other American competing lines, because if we passed your law, the minute a cargo of goods crossed the Canadian line they would have to pay this tariff before they could come back into America, whereas now they go through in bond.

Mr. FORDNEY. Would that be a parallel case, because the goods now shipped over the railroads go through in bond?

The CHAIRMAN. I know.

Mr. FORDNEY. And would it not be the case with goods shipped in a ship from an American port, going into a Canadian port, that they would go out of bond from the ship to the railroad car?

The CHAIRMAN. Not necessarily. However, you have got to make a law for taxation uniform.

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Mr. HUMPHREY. I do not think the chairman quite understands my proposition. I recognize the fact that there are two ways of reaching this proposition, one by the amendment of the navigation laws, which is an absolute prohibition, and the other is to make some discrimination. Now, my reason for asking that it be done in this way—or, at least, I have several reasons for it. In the first place, I recognized the fact that if it was put on to a great tariff bill that there could be some action taken, and my experience has been—and I beg the gentleman's pardon for making the statement—that while matters affecting the Canadian Pacific Railroad have been able to go through the House, so far as I have ever known, when they have gotten over to the Senate they have stuck there, and this is a Canadian Pacific Railroad fight, some of it. Another one is that there is a prejudice—although I do not say the chairman is prejudiced—but I think there is a feeling in this country among some of the members of Congress that as the coastwise trade is an absolute monopoly it ought not to be protected any further. I think the chairman is one who holds that view.

The CHAIRMAN. In many respects I think it is one of the most iniquitous laws we have on the statute books.

Mr. HUMPHREY. I thought it would be unobjectionable if this were put in a bill which would enable the Government to get some revenue, and to not make it an absolute prohibition. Now, replying to the chairman's question directly, what I ask is this: That where American products are carried from an American port by a foreign ship to a foreign port, and there placed upon a foreign railroad, or by any other means by land brought into this country, that they pay a duty. Under the present law if they do that, the goods are absolutely confiscated; they are prohibited from doing that, and I am simply asking that instead of confiscation they pay a duty.

The CHAIRMAN. I am satisfied that the gentleman from Washington will agree with me that, under the Constitution, we can not pass any tariff law that is not uniform, and any law we might pass which would apply to Seattle would have to extend the entire length of the coast line.

Mr. HUMPHREY. I agree with the chairman entirely.

The CHAIRMAN. Therefore——

Mr. HUMPHREY (interposing). But I do not think this would be a discrimination.

The CHAIRMAN. Well, it is not a question of discrimination. The taxation laws must be uniform, and whatever law we passed relating to Seattle and Vancouver would have to apply to Maine and Newfoundland, and would have to apply all along the line.

Mr. HUMPHREY. If the situation were reversed, and the trade was not all one way—that is, manufactured products came into our country and came back this way—they would have the same situation in Portland and St. Johns, and would have it on the southern border. But I do not ask that it be made specific as to this portion of the country. I simply ask that where a foreign ship is used for practically evading our coastwise laws, takes goods into a foreign port and then ships those goods back into this country, where it is perfectly apparent that it is for the purpose of evading the coastwise laws, that those goods pay the duty, and that law should apply to the east coast as well as to the west coast.

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The CHAIRMAN. I think that if we applied it on the east coast we would get into very much more serious trouble there, and in a larger way, than we would out in Seattle. But I will state to you candidly, Mr. Humphrey, that some years ago we passed a law allowing foreign ships the right of our coastwise trade between this country and Hawaii, and I believe that is the law to-day in reference to the Philippines, by reason of the suspension of the coastwise trade laws, but if we were to allow a foreign ship the advantage of the coastwise trade laws between the Pacific and the Atlantic, just like we do between the Philippine Islands now, I believe your people would get more competition in the way of freight rates, and the whole question would be obviated, would it not?

Mr. FORDNEY. But our American ships would have to go out of business right away.

The CHAIRMAN. I do not think they would go out of business. As a matter of fact, very few American ships are engaged in the coastwise trade around the Horn now.

Mr. HUMPHREY. There are not very many; but I will say, for the information of the chairman, that there is a large number now being constructed for the trade through the canal. But there is just this one thing about it, gentlemen, that if this loophole in our coastwise law remains as it is to-day and the Panama Canal is opened it would be a great deal better for the Pacific Northwest if we had never constructed that canal, because you are going to throw the trade and the commerce of this country open to other countries; you are going to leave a loophole there and take the trade from this country and give it over to British Columbia. And regardless, as I said, of the coastwise laws—and I believe in their wisdom, although I will not take your time to argue about that, because you gentlemen do not want to go into it—I think we have a right to come here before this committee and ask that in the Pacific Northwest we be treated in the same way as the other portions of the country, and that simply because of our geographical situation Congress ought not to permit this condition to remain in our tariff law—a condition which, I think, very few men on the committee realized would arise when they allowed the law to pass.

The CHAIRMAN. I do not think you have any standing in court with this committee. You are complaining against the condition in the coastwise trade laws, and I do not agree at all with what you are trying to do in making those coastwise trade laws still more prohibitive and more of a monopoly than they are now, but if you want that done it seems to me you have a clear case that is within the jurisdiction of the Committee on Merchant Marine and Fisheries. You can go and ask that committee to amend the law so that it may apply to your case, but if we were to attempt to do it by legislation in a taxation bill I think we would work a great deal more injury to other people than we would benefit you.

Mr. HUMPHREY. I do not want to argue that particular point, but I do insist that this would not be a discrimination and that any amendment of section 15 of the present tariff act is a proper amendment, and the bill which I have drawn would not discriminate, because it provides "that there shall be levied upon the goods, wares,

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or merchandise manufactured, produced, or grown in the United States that is transported from any port or place in the United States by any vessel not of the United States to any foreign port or place, and from such foreign port or place transported to any port or place in the United States by rail, or otherwise, the same duty as if said goods, wares, or merchandise were the product, manufacture, or growth of of foreign country."

You see it is simply, in this particular case, as we did in the early years of the Government, making a discrimination against goods carried in foreign ships. That is the only way we ever did do any good for our merchant marine; we never built it up and never had a law, as I recall, but for two years upon the statute books but what was a discrimination against the foreign ships, and that is what I ask here. It is simply a discrimination. If a man wants to send his goods around to Spokane by the way of Vancouver in a foreign ship, let us make the duty heavy enough so he will not want to do it.

The CHAIRMAN. I do not think there is any question but that if you want to change these coastwise trade laws it should be done by the committee that has jurisdiction over it. While I do not agree with you, I think you have your court there, and I do not think a question of this kind could be put in a tariff law without bringing about all kinds of complications along the Canadian border north of the New England States.

Mr. HUMPHREY. Well, I do not want to insist on arguing with the chairman as to the policy, because I know that would be quite a job, but as to the right to amend this section of the law and as to the fact that it would not be a discrimination against other sections, I insist the chairman is wrong. I gave that considerable study, and I consulted yesterday, or, rather, the parliamentarian consulted with me, as to where this bill should go, and he thought as I did that it should come here, and I think you could make this change, if you want to make it. But, as I said before, I do not want to argue with you about the matter of policy.

Mr. KITCHIN. How long has this condition existed?

Mr. HUMPHREY. It has always existed.

Mr. KITCHIN. Did you go before the committee in 1909?

Mr. HUMPHREY. No; because as I said a moment ago, I do not presume anyone ever anticipated the situation would arise. It never occurred to me until I got to studying what would be the result when the Panama Canal was completed. I have no doubt in my own mind but that if the attention of the distinguished chairman, Mr. Payne, had been called to it he would have taken care of it, because he is not only familiar with the tariff laws but familiar with the navigation laws. But it is a situation that he did not discover; I did not discover it, and no one else, so far as I know, discovered it until recently, and I am coming here before this committee asking relief at a place where I know I can get it if the committee wants to do it.

The CHAIRMAN. I will say to the gentleman from Washington that if he cares to liberalize the coastwise trade laws, in order to remedy the trouble in that way, I will be very glad to act with him, but as far as I am personally concerned, I am not willing to lock the door tighter than we have it locked now.

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Mr. HUMPHREY. When it comes to the question of this country against British Columbia, I am in favor of locking the door to the extent of putting us on the same footing with the rest of the American republic.

The CHAIRMAN. I am not talking about locking the door against British Columbia, but about locking the door in the case of coastwise trade. I think we ought to liberalize our coastwise trade laws, thereby giving us better chances of freer competition in our freight rates.

Mr. HUMPHREY. Until that is done we would like at least to have a fair chance as against British Columbia. I ask leave to insert in the hearing a letter received from the Treasury Department upon this same question.

The CHAIRMAN. Hand it to the stenographer, Mr. Humphrey, and it will be printed in the record.

TREASURY DEPARTMENT,
OFFICE OF ASSISTANT SECRETARY,
Washington, January 22, 1913.

Hon. WILLIAM E. HUMPHREY,
House of Representatives, United States.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, submitting the following hypothetical question:

"Suppose that a merchant in Spokane, Wash., purchased a cargo of steel rails, or any other American-produced article, in New York City, and then used a foreign ship to transport such cargo to Vancouver, British Columbia, and there placed the cargo on the Great Northern Railroad and by that road carried his goods to Spokane, would such goods be subject to tariff duties; and if so, what amount?"

In reply I have to inform you that articles purchased and shipped in the manner described would be entitled to entry free of duty under the provisions of paragraph 500 of the tariff act as goods of American manufacture returned to the United States without having been advanced in value or improved in condition.

The case of the Southern Pacific Railroad, to which you refer, was decided by this department under date of September 24, 1909, the matter having first been submitted to the Secretary of Commerce and Labor for an expression of his views as to whether the provisions of section 4347 of the Revised Statutes would be violated by the transportation of railroad ties in the manner indicated. The collector at Nogales, Ariz., was advised by this department that the shipment of such merchandise in the manner stated was not prohibited by section 4347 of the Revised Statutes as amended by the act of February 17, 1898, and the rails in question were admitted to entry free of duty as American goods.

I desire to invite your attention also to an opinion of the Attorney General, dated January 5, 1913, addressed to the honorable the Secretary of Commerce and Labor, to the effect that the transportation of merchandise on through bills of lading from Seattle to Fairbanks, by way of Skagway, Alaska, and Whitehouse, Yukon Territory, is not a violation of section 1 of the act of February 17, 1898.

Respectfully,

J. F. CURTIS,
Assistant Secretary.

STATEMENT OF HON. JAMES WICKERSHAM, DELEGATE FROM ALASKA.

Mr. WICKERSHAM. Mr. Chairman, I am here to call the attention of the committee to a proposed amendment to the act of August 5, 1909. I think it is to section 15 of that act, which I very greatly fear will have a very serious effect upon conditions in Alaska. It was proposed by Mr. Humphrey, and is H. R. 28503, and, as I understood, Mr. Humphrey was here before the committee a day or two ago. The bill itself was introduced January 29, and I wish to read it to the committee and to call attention to—

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The CHAIRMAN. I do not think it is necessary to read it to the committee, but you can explain what your objections are, Mr. Wickersham.

Mr. WICKERSHAM. I want to call attention to the geographical conditions in Alaska, which make it seem to me to be of importance to the Territory. It is a bill which proposes to levy a duty upon American goods carried from one port to another port by foreign bottoms, and we are in this situation, and especially with respect to the interior of Alaska, i. e., a great deal of our freight comes into the upper Yukon country via Skagway, over the railroad to White Horse and down the Yukon River by way of Dawson into Alaska, and if this rate of duty were to be imposed upon all of those goods it would entirely close that route to the transportation of our supplies; and while I have not given this matter so much consideration that I am quite certain about my statements in reference to the matter, that is very important to us and I greatly fear the result.

The CHAIRMAN. I do not think you need be apprehensive at this moment, Mr. Wickersham. In other words, the proposition is if Mr. Humphrey's bill were to go through and a cargo was shipped out from New York through the canal and round into Vancouver, or one of the British ports, and then took the railway passage on into Alaska, really intending to go to Alaska, it would have to pay the tariff as if it came from a foreign country.

Mr. WICKERSHAM. Yes; but under this bill if it went from Seattle the situation will be the same.

The CHAIRMAN. I realize that, and I do not think it is necessary to present it to the committee.

Mr. WICKERSHAM. I would like to present it to the committee, because it is very serious.

The CHAIRMAN. If the committee decides to take the matter up, I will let you know, Mr. Wickersham.

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STATEMENT OF NATIONAL WOOL GROWERS ASSOCIATION.

SALT LAKE CITY, UTAH, *January 25, 1913.*

Hon. OSCAR W. UNDERWOOD,

Chairman Committee on Ways and Means, Washington, D. C.

MY DEAR MR. UNDERWOOD: Recently we have noted reports in press that yourself and the committee of which you are chairman have under consideration suggestions for strengthening the administrative feature of our tariff laws. We desire to thank your committee for having taken this matter up, as it is of immediate importance to domestic industries.

Under the tariff law as now operated, many inequalities occur that tend to give imported merchandise a distinct advantage over domestic product. For instance, under the present law imported wool may go into a Government bonded warehouse where it can remain for three years without the payment of duty. There is always from 40,000,000 to 100,000,000 pounds of wool duty unpaid in these bonded warehouses. Even with the short supply of the present moment there is now 47,889,704 pounds of wool in bond. The only charge against this bonded wool is the storage charge, which certainly is not high enough. Wool in bond is not taxable; therefore, by dealing in foreign wool the importer escapes several charges that follow domestic wool. In the first place the duty of 11 cents per pound is not paid on bonded wool, thereby saving the importer interest charges. Domestic wool, however, is supposed to be enhanced

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by the duty which increases the investment and interest of the man who owns domestic wool, as would not be the case if he invested his money in foreign wool. The man who handles domestic wool is taxed for its value by the State, county, or city in which he resides; however, if he handles imported wool he may leave it in a bonded warehouse almost indefinitely and escape taxes. Again, it is the custom to carry immense stocks of wool in these bonded warehouses and when the wool market is quoted to quote this bonded wool as "available supplies." This, of course, tends to depress the market price of domestic wool, for it makes the supplies seem really greater by many million pounds than they actually are. The fact that this immense volume of bonded wool is in these warehouses prevents the domestic wool grower from enjoying the benefit of any rise in the foreign market. The wool importer, having an immense available supply already in bond, is not forced to take cognizance of rises in the foreign market.

This bonded wool keeps our wool growers from holding their wool until they receive its full value. If the domestic wool grower does not sell his wool for what he can get, the manufacturer, having a big bonded supply, can draw on it, thus forcing the domestic grower to meet his price.

We, therefore, desire to suggest that the tariff laws be so modified that the duty on imports will be collected as soon as the goods are landed in this country regardless of whether they go into bonded warehouses or not.

Second. That the storage charges in all bonded warehouses be made higher than current charges in private warehouses.

Third. That merchandise shall only remain in bond 90 days, and after that period shall be taxed an equal amount to the total taxes paid on similar goods held in private warehouses.

Fourth. That where wool duties are levied on an ad valorem basis the London market price of such wool, plus the total handling and importing charges, shall be the value used in assessing the duty.

The London wool market is a rather stable institution, and if it could be used as the basis of wool values it would tend to prevent undervaluation. Also it appears to us that in collecting the duty the foreign cost plus all importing and handling charges make the value of the product, and therefore the duty should be levied upon these charges.

The officers of the National Wool Growers' Association feel that a good deal of discrimination takes place under the present law, and therefore we have submitted these suggestions for your consideration, with a hope that they may meet with the favor of yourself and your committee.

Respectfully submitted.

NATIONAL WOOL GROWERS' ASSOCIATION,
F. J. HAGENBARTH, *President*.
S. W. McCURE, *Secretary*.

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[See also B. A. Levett, p. 5913; Comstock & Washburn, p. 5812; James F. Curtis, p. 6304.]

TESTIMONY OF WILLIAM J. GIBSON.

The witness was duly sworn by the chairman.

Mr. GIBSON. I appear here on the administrative features of the tariff bill, and I was going to ask you whether, after I read this letter which I have here, you think I ought to be sworn.

The CHAIRMAN. The committee has instructed me to swear all witnesses; but so far as the administrative features of the law are concerned, if there is no objection, the witnesses on that feature will not be sworn. [After a pause.] There is no objection, and you may proceed, Mr. Gibson.

Mr. GIBSON. Mr. Chairman and gentlemen of the committee, it will be proper for me, I think, to explain why I am here on the administrative features of the law. Mr. Redfield wrote this letter

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which I have here to the president of the Reform Club, and I think I had probably better read it, and it will explain why I am here and show that I am not assuming to inform this committee as to the administrative features of the law. This letter is dated December 12, 1912:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EXPENDITURES IN THE POST OFFICE DEPARTMENT,
Washington, D. C., December 12, 1912.

THE PRESIDENT OF THE REFORM CLUB,
9 South William Street, New York, N. Y.

MY DEAR SIR: On the evening when I had the pleasure of speaking at the dinner of the tariff reform committee of the club shortly before election I recall that a gentleman (I think it was Mr. Gibson) spoke during the general discussion of the administrative details in which the customhouse service needed correction. The subject has long interested me, and I have already taken it up with Mr. Underwood, the chairman of the Ways and Means Committee, as one of the matters that need correction under the coming administration. Mr. Underwood said to me that he would welcome a written statement to be furnished the Ways and Means Committee at convenience during January. I find that the calendar of hearings of the Ways and Means Committee on the proposed tariff revision calls for a hearing on the administrative features on Friday, January 31. It occurs to me that Mr. Gibson or some one else whom your club may select should submit a full and carefully prepared statement at that time, and I shall myself be glad, if it will assist, to attend and see that the same is carefully presented.

I suggest also that your tariff reform committee obtain from the clerk of the Committee on Ways and Means, House of Representatives, the calendar of the hearings and take such measures as they may wish to be presented at same. If in any way I can assist the committee during these hearings, I shall be glad to do so. I beg to remain,

Yours, very truly,

WILLIAM C. REDFIELD.

That is the letter, and it accounts for my being here on this subject, to address the committee on the subject of the administrative features of the tariff bill.

The administration of the customs of this country is a very important subject. It employs about 8,000 men, and it costs the Government from ten to eleven million dollars annually. It extends all over the country, including Alaska and our insular possessions. All these cases, all matters of dissatisfaction of the importer with the classification of his goods and with the value placed on them, all go to New York in the first instance, as the law requires, on a protest being filed, that there be a notice of appeal, that the collector must transmit all the papers to the Board of General Appraisers at New York.

I was going to speak first in regard to one thing that concerns me a great deal, the subject of the increase of litigation in these customs matters. In the three years 1894, 1895, and 1896 the average number of protests filed in each year was 21,364. In the three years of 1910, 1911, and 1912 the average number filed in a year was 94,472; each protest was an appeal from the rate and amount of duty assessed by the collector to the Board of General Appraisers, and each was a case to be decided. You will thus see that there were more than four times as many in the latter three years as in the former three years. It was about the same proportion in regard to reappraise-

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ments. I do not have the figures as far back as the former three years, I could not get the records of that time, but in the year 1900 there were 2,561 appeals from appraisement to a general appraiser, of which 2,080 were from the port of New York and 481 from all other ports. In the year 1912 there were 5,796 appeals from appraisement, of which 4,543 were from the port of New York and 1,253 from all other ports. So you will see that in the time mentioned the number of reappraisements have more than doubled. These figures show an unwarrantable increase in the number of protests and appraisement cases, and that importers in at least this number of cases believed that they had not been fairly and justly dealt with in the administration of the customs laws.

There must be some reason for this. People do not go into litigation unless there is something which occasions it. I do not know exactly what it is, but presumably it must be in the administration or because they are not satisfied. That is one of the features that I wanted to impress upon you—the amount of this litigation. It is entirely out of proportion. It seems to me that of late years the amount of litigation in these customs matters has been increasing unreasonably; certainly it has increased over the amount that followed the passage of the law of 1890; the law of 1909 has not been in force very long, and it is difficult to use that as a basis of comparison.

I will go over some of the things to which I have called attention in my brief. The largest proportion of our duties are specific and the next largest are ad valorem, and next we have the compound, and I wish to speak to the committee on the compound duty. There is a matter where I daresay Congress is often misled as to the extent of compound of duty. In regard to that, I wish to give you an instance.

There was an importation of mica from Canada, made up of small sheets or pieces of mica. That was returned by the appraiser as "mica unmanufactured" and appraised at \$3 a ton, and duty was assessed thereon at 6 cents per pound and 20 per cent ad valorem, thus making a duty on an article that was appraised at \$3 a ton of \$120.60 a short ton, over forty times the appraised value of the article per ton or 4020 per cent ad valorem. This rate and amount of duty was sustained by the Board of General Appraisers and also by the circuit court on appeal in the case of *Myers v. United States* (110 Fed. Rep., p. 940). Congress in the tariff act of 1909, paragraph 91, reduced this duty to 5 cents per pound and 20 per cent ad valorem. This still leaves a duty on a similar article of the same value of over thirty-three times its value or 3350 per cent ad valorem.

Mr. HILL. The Treasury Department has overruled that in one of its decisions and decided that that was not the proper construction of the law and that Congress did not so intend it.

Mr. GIBSON. I am not aware of that decision.

Mr. HILL. I think you will find that they overruled the Board of Appraisers.

Mr. GIBSON. They would have to overrule the court; they can not nullify a decision of the court; certainly the decisions of the circuit court can not be overruled by a decision of the Treasury Department.

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Mr. HILL. The Treasury Department did that before the court acted on the matter. I took the case there, so that I happen to know about it.

Mr. GIBSON. I am only showing the committee what a compound duty may lead to. I am discussing that question in cases where there are articles having a wide scope of value; some of this mica is extremely valuable and some of it is comparatively valueless.

At the suggestion of Mr. Redfield I have gone over this matter and have prepared this brief with some care, to show every step in the administration of the customs laws from the time the importer receives his invoice up to the time of his presenting it and his entry at the collector's office and the process there. It is all here in this brief, and if the committee desires the full information they can read it at their leisure.

I will now refer to the appraisement. When due entry of goods has been made by the importer, the next step is the appraisement if the duty depends on the value. This is done at the port of New York and the larger ports by examiners under the general direction of the local appraiser and assistant appraisers at the port of entry. These examiners are persons who practically appraise the dutiable value of goods and classify them. At the port of New York hundreds of thousands of dollars in duties depend upon the judgment of one man. The assistant appraiser and the appraiser accept the return of the examiner and the collector accepts the return as made by the appraiser as a rule. At the smaller ports, where there is no appraiser, the person acting as such makes the appraisement. The examiner has before him the consular invoice of the goods, the collector's notation thereon, and has also a package or packages of the goods retained for examination, or a greater proportion if he considers he needs them and calls for them.

It is required that the entered value of the goods shall be a true statement of their foreign market value or wholesale price in the country from whence exported and at the date of shipment.

The law presumes that the importer knows the market value of his own goods. If he fixes the values too high, the excessive duty can not be refunded to him, as duty can not be assessed upon a lower valuation than is expressed in the entry. If he places it too low and the appraiser's officers appraise the goods at a higher value, the law imposes an additional or penal duty of 1 per cent upon the appraised value for each 1 per cent that such value exceeds that declared in the entry.

Here is a feature which I wish to present to this committee, and which I think is very important, and it is this: As the law now stands if the appraiser on the appraisement of the merchandise advances it 1 per cent above the entered value, a penalty attaches for each 1 per cent the appraiser advances the goods above the entered value, and they are penalized 1 per cent upon the appraised value, which increases the amount to be paid up to an enormous amount in some cases. The statutes prior to 1890 allowed the importer a leeway of 10 per cent, and I submit that the importer ought to have a lee-

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way of at least 5 per cent without any penalty attaching, and that that section of the law ought to be amended in that respect.

Mr. PAYNE. Complaint was made when the change was made that the large number of importations that up to the value limit when they came to be reappraised, up to the value limit, at which point the penalty attaches, there seemed to be a sort of coincidence there which this law was intended to break up, and I understand it has had that effect.

Mr. GIBSON. It occasions great hardship in some cases, and there is no relief; that is the trouble. These appraising officers are intended by law to have the independence of judges of the courts in the performance of their duties.

When the dutiable value of the goods has been finally ascertained, the next step is the determination of the rate of duty to which the merchandise is subject, and that is determined by the collector of customs at the port of entry, and the collector also decides any incidental or collateral questions that may arise and computes the amount of duty.

Mr. JAMES. Do you think to give this leeway would tend to undervaluation?

Mr. GIBSON. I do not think it would; I do not believe it would tend to undervaluation. The merchant buys his goods abroad; he may, by paying cash, get some reduction, he may get them for something below the market value, or the market quotations may be different in different places or the market value may change slightly, and to punish the importer for that even a matter of 1 per cent seems to be a great hardship.

Mr. JAMES. Do they do that very often?

Mr. GIBSON. Oh, yes; it is done a great deal. The result is that the merchant unfortunately values his goods higher, he enters his goods higher, because if he enters them too low he is punished, but if he enters them too high he suffers also.

Mr. HILL. You understand several changes were made in this paragraph which seemed to meet the approval of the importers at that time, that the privilege which existed previously to change the value of the invoice at the time of importation only related to raising it, and the law was amended to cover the lowering of it. The penalty of 1 per cent was left unchanged, but at the request of the importers the point where that penalty stops was raised from 50 to 75 per cent, and I think the committee thought they were fully meeting the wishes of the importers who were present and discussed this very extensively. I think Mr. Smith, a lawyer of New York, was one of those who represented the gentlemen who were interested.

Mr. GIBSON. Mr. Wickham Smith.

Mr. HILL. Yes; I think so. These changes were made with a view to easing up the situation, and I think the committee did not deem it wise to make a margin which the importers might take advantage of at their own discretion.

Mr. JAMES. Of course, there are always complaints. Nobody seeks to pay any more duty than they can help. Nobody feels under any real moral obligation in the payment of duties.

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Mr. GIBSON. When the dutiable value of the goods has been finally ascertained the rate of duty to which the merchandise is subject is determined by the collector of customs at the port of entry, who also decides any incidental or collateral questions that may arise and computes the amount of duty. If in this procedure he finds that the importer has paid on an entry either not enough or too much duty he notifies the importer accordingly, and an adjustment is made by a further payment or refund, as the case may be, of the difference. Collectors of customs are not in any sense judicial, but ministerial officers. The Secretary of the Treasury is the superintendent of the collection of duties and is authorized by law to instruct collectors as to the classification of the imported articles for dutiable purposes under existing tariff laws—that is, whether free or dutiable, and if the latter, as to the particular rate to be imposed, and this power is frequently exercised by the Secretary where collectors at different ports disagree as to the classification or rate of duty applicable to the particular kind of, or class of, merchandise. The collectors are expected to resolve all reasonable doubts in the matter in favor of the Government or in favor of the higher rate. In this procedure collectors do not usually give the importer opportunity to be heard—that is to say, they do not appoint a time for a special hearing and discussion of the matter in which the importer and his attorneys shall participate.

The proceeding there is what they call liquidation. There is another hardship. The collector liquidates the amount of duty, ascertains the amount of duty, and the importer has got to find it out for himself. They post it up in the customhouse, and the importer has got to watch every day to see when these goods are liquidated, because after the liquidation takes place and it is hung up he gets no other notice. If the importer or his representative is dissatisfied with the rate and amount of duty assessed upon the article or articles by the collector, he may, within 15 days thereafter from the date of liquidation of the entry, file with the collector notice of such dissatisfaction, which notice is called a protest. Upon such notice and protest the collector is required to transmit the protest to the Board of General Appraisers, which board is divided into three boards of three members each, and each of the boards of three general appraisers, or a majority thereof, has full power to hear and decide the protest, as prescribed in subsections 12 and 14 of section 28 of the tariff act of August 5, 1909. The importer is required by law to point out in his protest distinctly and specifically and in respect to each entry or payment the reasons for his objections thereto and the particular section, paragraph, or provision of the law he claims to be applicable to his case. If he fails to make the right claim in his protest, he can not recover, even though the collector's decision in the matter was erroneous. Technical precision is not required in protests. Any language that fairly indicates the specific objections existing in the mind of the importer at the time is sufficient.

The importer or his attorney and the Assistant Attorney General and his assistants for the Government may appear before the Board of General Appraisers on the hearing of all protests, and may, if they so desire, have compulsory process to secure the attendance of wit-

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nesses, and may then also present such other evidence as they may wish. These hearings and other proceedings in the consideration of protests are public. The protestants may manage their cases in person or by counsel, as they prefer, and all witnesses may be cross-examined. The functions of the board are of a judicial nature, and the procedure is similar to those in the Federal courts. An appeal from the decisions of a board of appraisers on protest may be taken to the United States Court of Customs Appeals either by the protestant, the importer, or the Government within 60 days after the entry of judgment and 90 days in Alaska and the insular and other outside possessions of the United States.

There is no other legal method of setting aside the decisions of the Board of General Appraisers; they can not be altered or ignored in any instance by an executive or ministerial officer of the Government. If an appeal is not taken within the prescribed time the collectors of customs must give effect to the judgment; that is to say, if the decision sustained the importer's claims the collector must re-liquidate the entry and refund the duties collected in excess of those held by the board to be properly assessable. If, on the contrary, the board's decision overrules the importer's claim or claims, nothing more is to be done in the matter, the proper rate and amount of duty having been paid; though both the decisions of the board and the court have been practically disregarded and nullified by the Secretary of the Treasury frequently directing the collector to refund the duty decided to be excessive in the particular case decided, but to continue assessing the same rate of duty decided to be excessive on other similar merchandise, thus compelling the importer to litigate the same question over again, and during the time the question is in litigation to continue to collect the higher duty, and by this course keeping a settled question open and increasing the amount of customs litigation which is already abnormally large.

I have a suggestion here in regard to the appraisers, which we have gone into in New York very carefully, and also the matter in regard to the examiners. We make the suggestion in regard to these officials in New York because the largest amount of importations into this country come into the country through New York, and four-fifths of the protests and four-fifths of the dissatisfaction with the reappraisement arise in New York.

As you will observe from my brief, the whole subject of appraisement rests upon the examiners, each one in his particular line of goods. Practically, the examiner is the appraiser, and the only officer who examines the goods in most instances. He consults occasionally with the assistant appraiser, but it is believed that it seldom happens that his conclusions are modified either by the assistant appraiser or the appraiser. Frequently one examiner will handle one kind of goods for many years. It is his duty to make an actual inspection of the packages brought in for examination and to verify or to correct the invoice in these particulars: First, as to the description and character of the goods and rate of duty; second, as to the quantity thereof, except where they are gauged, weighed, or measured by another officer; and, third, as to the value. In regard to the first two parts, he is the only officer who regularly examines

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the goods, and the collector naturally accepts the facts as reported by him with great regularity. His action on the point of value may be revised or corrected by the assistant appraiser or the appraiser, but here, again, his returns are seldom modified, as it would be an impossibility for the appraiser, or even the 10 assistant appraisers, to examine the goods, and they do not attempt it. The duties on goods passed by one examiner may amount to millions of dollars in a year, and the Government trusts him almost implicitly. One dishonest examiner could cause the Government a loss equal to the salaries of a hundred or more. I propose, in order to remedy this situation, first, to abolish the offices of the 10 assistant appraisers as useless; second, to double the number of examiners and require the appraiser or the Secretary of the Treasury to divide them into two classes and to designate one or more as deputy appraiser.

Every shipment of goods should be examined by the examiner, who should make his report in writing upon the invoice and then turn it over to a second examiner, who would do the same. If both agree—that is, in the appraisement—the invoice should go at once to the collector without a formal and meaningless approval by the appraiser. If the two examiners do not agree, the appraiser shall personally examine and appraise the goods, and his report shall be final, except in the case of appeal, as provided by law. It is believed that there would not be many such cases, but to provide against the contingency of the appraiser not being able to act in all such cases there should be authority for one or more examiners to be designated as deputy appraisers for this purpose.

The examiner who makes the first return should be continued on the same kind of goods indefinitely, in order to get the benefit of experience. The second class of examiners should be shifted, say, every six months, but there should be no regular rotation or fixed rule by which anyone could know a long time in advance who the examiner would be on any kind of goods. In order to preserve the full authority of the appraiser, he should have discretionary authority to himself examine and appraise any shipment, either before or after one or two examiners had acted thereon, substituting his own report for any previously made. This authority should also extend to reports as to quantity and rate, as well as to value.

There would be some additional expense, which, however, would be offset in part by 10 assistant appraisers. The money would be well spent. It would not only guard against corruption, but against errors of judgment, oversights, and carelessness. When considering the expenses of the appraisers' office is it not well to keep in mind the amounts of duties collected? Even \$100,000 a year is but a drop in the bucket compared with the half million dollars a day which is collected at the New York customhouse. We do not know—there is no means of knowing—how much revenue the Government may be defrauded of. Nobody knows. It is like the police system in New York in the vice matter; you do not know until it turns up every now and then what it is. For instance, I refer to the matter of the Devine Bros. Nobody supposed that they had undervalued to such an extent; yet they paid back \$1,200,000. In that case the discovery was made through one of their clerks; so that you can not tell.

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Within the past year a number of merchants have been called down to the collector's office to settle.

The CHAIRMAN. Mr. Gibson, your time has expired, but I would like to hear you complete your statement, because I am interested in your discussion of this particular subject. If there is no objection, you may continue. [After a pause.] There seems to be no objection, and you may proceed.

Mr. GIBSON. I have gone over these matters rather loosely, but they are set out in full in my brief. I have several amendments to propose.

My first proposed amendment is in regard to subsection 7 of section 28. I propose that subsection be amended by inserting after the word "entry," in the seventeenth line, the words "by more than 5 per centum"; and in the twentieth line, after the word "centum," by inserting the words "in excess of 5 per centum."

I have also a suggested amendment in the sixth paragraph of subsection 7. Near the end of subsection 7, in the sixth paragraph, it is provided that—

The forfeiture provided for in this section shall apply to the whole of the merchandise, or the value thereof, in the case of package containing the particular article or articles in each invoice which are undervalued.

I propose that that be amended so as to read this way:

The forfeiture provided for in this section shall apply to the whole of the merchandise, or the value thereof, in the case of package containing the particular article or articles in each invoice which are undervalued.

I also propose to amend this subsection by striking out the words "seventy-five," in the twenty-seventh line, and inserting in its place "sixty-five"; also striking out all of the twenty-eighth line, except the words "article or articles"; also striking out all of the twenty-ninth, thirtieth, thirty-first, and thirty-second lines, the word "draw-back," in the thirty-third line; all of the fourth and third lines, from the end of subsection 7; and the words "of the Treasury," from the second line from the end of said subsection 7.

This would practically leave the Secretary of the Treasury the power which he has under sections 5292 and 5293 of the Revised Statutes and sections 17 and 18 of the act of June 22, 1874. The restoration to the Secretary of the Treasury to remit the additional duty, if he was convinced that there was no fraud or intent to defraud, is only justice to the honest importer, as the drastic feature of the law was only intended to deter frauds or attempted frauds on the revenue. This power was never abused when in force, and a case recently before the Board of United States General Appraisers illustrates the harshness of the present law. An importer brought into the port of New York recently 100,000 lithographed picture cards, comprising 89 lots of various numbers of cards for each lot. They were purchased in Germany as a job lot, at a price for the whole of 15 marks per thousand, with a discount of 10 per cent. They were not soiled, but were old subjects, and no question was made at the hearing that the importer had not paid the price stated in the invoice for the cards. The appraiser advanced the value 253 per cent, the single general appraiser 150 per cent, and the board of three general appraisers 66 per cent. Testimony was introduced by the importer

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to show that he had offered the cards to the principal houses in New York dealing in such cards, and the best price he was offered was a price equal to the invoice price and the regular duty. The total invoice price was about \$300, and the regular duty at 25 per cent would have been about \$75. The additional duties under the law of 66 per cent and the regular duties amounted to \$481, which he was obliged to pay and take his goods, and there was no remedy under the law.

I will read subsection 7 as it would be if amended as I have suggested:

SEC. 7. That the owner, consignee, or agent of any imported merchandise, may, at the time when he shall make and verify his written entry of such merchandise, but not afterwards, make such addition in the entries to or deduction from the cost or value given in the invoice or pro forma invoice or statement in form of an invoice which he shall produce with his entry, as in his opinion may raise or lower the same to the actual market value or wholesale price of such merchandise at the time of exportation to the United States in the principal markets of the country from which the same has been exported, and the collector within whose district any merchandise may be imported or entered, whether the same has been actually purchased or procured otherwise than by purchase, shall cause the actual market value or wholesale price of such merchandise to be appraised, and if the appraised value of any article of imported merchandise subject to an ad valorem duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the value declared in the entry by more than 5 per cent there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, an additional duty of 1 per cent of the total appraised value thereof for each 1 per cent in excess of 5 per cent that such appraised value exceeds the value declared in the entry: *Provided*, That the additional duties shall only apply to the particular article or articles in such invoice that are so undervalued and shall not be imposed on any article on which the amount of duty imposed by law on account of the appraised value does not exceed the amount of duty that would be imposed if the appraised value did not exceed the entered value, and shall be limited to 70 per cent of the appraised value of such article or articles.

If the appraised value of any merchandise shall exceed the value declared in the entry by more than 75 per cent, except when arising from a manifest clerical error, such entry shall be held to be presumptively fraudulent, and the collector of customs shall seize such merchandise and proceed as in the case of forfeiture for violation of the customs law, and in any legal proceeding, other than a criminal prosecution that may result from such seizure, the undervaluation, as shown by the appraisal, shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged, unless he shall rebut such presumption of fraudulent intent by sufficient evidence. The forfeiture provided for in this subsection shall apply only to the particular article or articles of merchandise, or the value thereof, in each invoice which is undervalued. All additional duties, penalties, or forfeitures applicable to merchandise entered by a duly certified invoice shall be alike applicable to merchandise entered by a pro forma invoice or statement in the form of an invoice. The duty shall not, however, be assessed in any case upon an amount less than the entered value.

The CHAIRMAN. You make it 5 per cent instead of 10?

Mr. GIBSON. Yes, sir; 5 per cent.

The next suggestion for an amendment is in subsection 14. The law now gives the importer 15 days and I suggest 30. The reason for this extension of time to file protests is that the importer has to find out for himself when his duties are liquidated. Notice is not sent to him; it is posted in the customhouse, and he may not find it out for some time, especially if his place of business is some distance from the customhouse; moreover, the period now fixed does not give the importer sufficient time to determine whether he has sufficient grounds

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for protest, so he will often file a protest to save his rights, and thus increase the expense and delay in the administration of the customs laws; when, if he had more time to consider the matter, he might not protest, and thus a great deal of litigation might be avoided.

Mr. PAYNE. We have heretofore spent a great deal of time in fixing that time. We want to fix that to the best and fairest advantage to everybody. There has never been any political division in the committee when this matter has been before it.

Mr. GIBSON. The next matter to which I desire to call your attention in the way of amendment is in connection with subsection 23 of section 28, which I think is a very important one. I suggest that subsection 23 be amended by inserting in line 7 between the words "same" and "out" the following, "with interest at the rate of 5 per centum per annum." Up to 1890 the Government had always paid interest. Where they had levied duty in excess of the legal amount and the legal amount was afterwards ascertained by the courts, the Government then paid interest. It had the use of the money all this time. It is a great hardship. Therefore, I ask that this proposed amendment be made.

The result of this amendment will be to give the protestant interest on that part of the duty that has been exacted illegally and has been ordered to be refunded. This was always paid by the Government in such cases, up to the passage of the administrative act of June 10, 1890. There is no good reason why the Government should not pay interest on money decided by the courts to have been illegally exacted and detained. It has had the use of it, and the protestant has been illegally deprived of its use; and his fortune and credit have often been ruined and destroyed by these illegal exactions; and the fact that no interest has been paid has often induced Government officials to continue unnecessary litigation for the reason that if litigation was unnecessarily prolonged and finally decided against the Government, it would not have to pay any interest, and would have had the use of the money in the meantime without interest. It has frequently happened that protestants have had to borrow money to pay these illegal exactions and to pay interest thereon.

Mr. JAMES. It has never been the policy of the Government to pay interest on the claims against it, has it?

Mr. GIBSON. No; but this is not a claim; really this is money that the Government illegally exacts, takes from the individual and uses it. I have often known district attorneys to say, "We will not be in any hurry to try these cases; the Government has the money and it is not paying any interest on it, and so it is gaining," and that has often been the excuse for delaying the case.

Mr. FORDNEY. A similar thing happens, does it not, in matters of land claims, where money is returned without interest?

Mr. GIBSON. Up until 1890 interest was always paid by the Government in cases where the duty had been exacted illegally and ordered to be refunded; the Government always paid the judgment.

Mr. FORDNEY. They do not pay interest on any claim of that kind, do they?

Mr. GIBSON. I do not know of any case of land claims; they did in these customs matters up until 1890.

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Mr. FORDNEY. I do not think they have ever paid any interest on any claim against the Government in land cases; it may have been done in customs cases.

Mr. GIBSON. I will show you a case here. It was in the case of the United States *v.* Citroen, which was decided in the United States Supreme Court, on appeal, on February 19, 1912, and is reported in 223 United States at page 407. This case illustrates the hardship of the Government exacting excessive and illegal duties and paying no interest thereon, and compelling the importer to sue to get his money back. The merchandise in this case was imported at the port of New York in March, 1907, and was appraised at \$220,000, and the collector assessed duty at the rate of 10 per cent. About a week after the payment of the 10 per cent duty the collector, under instructions from the Secretary of the Treasury, demanded an additional duty of 50 per cent, amounting to \$110,335. There was no claim that the importer had done any wrong. The Government officials simply changed their minds about the rate of duty. The importer paid this additional amount on April 6, 1907, under protest, and immediately brought suit to recover it back. That suit lasted until February 19, 1912. These duties, so illegally exacted, amounting to \$110,335, were refunded to him on April 1, 1912, the exact amount he had paid five years before. He did not receive any interest or any costs or his expenses. The Government had the use of his \$110,335 without interest for five years, which he had to borrow and pay interest for, amounting to between \$25,000 and \$30,000. The same thing is substantially true in every case where the duties are excessive and illegal.

Mr. PAYNE. Are you able to state whether he added the amount that he paid as a part of the price at which he sold the stuff, if he sold it?

Mr. GIBSON. Well, that importation was sold under contract made abroad.

Mr. PAYNE. Usually the case is, is it not, that the goods are imported, and if an unlawful duty is assessed beyond what the law prescribes, the importer sells the stuff and charges the extra duty as a part of the price?

Mr. GIBSON. I do not know.

Mr. PAYNE. You do not know that?

Mr. GIBSON. I suppose they generally do.

Mr. PAYNE. Is it not usually the case, and do you not know it is usually the case that they add in the amount that was paid as a part of the price of their goods?

Mr. GIBSON. I thought you wanted to know whether I knew personally about these things.

Mr. PAYNE. So that if anybody had an equitable claim for interest it would be the man charged the extra price by the importer, would it not?

Mr. GIBSON. That is a matter that you can settle as well as I can. I was going to say this: This is another illustration of the injustice of the tariff law. As to these duties, the importer charges it against the consumer, and the consumer pays it, and so it goes. It is one of those indirect taxes that condemns any tariff.

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Mr. PAYNE. There would not be any complete remedy unless we allowed the importer to fix the value and thereby provide against that sort of thing.

Mr. GIBSON. I will not take any more of your time. I was just going to emphasize the fact that this man did not get his money back until April 5, 1912, five years after he paid the duty, and he had to pay between \$25,000 and \$30,000 interest.

There are several other subjects which I have called attention to and discussed in my brief, but which I will not take the time to discuss here. I have referred to the matter of the Board of General Appraisers and the customs court, and there are several other subjects which I consider very important. There is the matter of reappraisements and the similitude clause. There is also the question of the statute of limitations. The law, which was enacted in 1874, is so obscure and ambiguous that the meaning has not yet been settled, and it does not fully cover the ground. We object to this provision because it deals only with reliquidations, not with liquidations. It does not prescribe any limit of time within which a collector must complete his ascertainment or liquidation of duties. If he once liquidates, the present law prevents him changing or correcting that liquidation more than a year after. There are cases where it has run for eight years and has worked great hardship.

I thank you very much for your attention.

Brief submitted by Mr. Gibson follows:

MEMORANDUM ON CUSTOMS ADMINISTRATION AND SUGGESTIONS FOR AMENDMENTS
OF CUSTOMS-ADMINISTRATION LAWS.

[From the tariff committee of the Reform Club. Prepared chiefly by Mr. William J. Gibson.]

NEW YORK, January 25, 1913.

THE COMMITTEE ON WAYS AND MEANS,
House of Representatives:

The Reform Club respectfully presents to your honorable committee a memorandum on customs administration and suggestions for amendments of the present customs administration laws, prepared chiefly by Mr. William J. Gibson, a member of the Reform Club, who was for over six years counsel for the Treasury Department for the Board of General Appraisers.

MEMORANDUM ON CUSTOMS ADMINISTRATION.

The rates of duty on a large proportion of the articles provided for in our existing tariff are purely specific—that is to say, are so much per pound, gallon, dozen, square yard, or other unit of quantity. On the larger proportion of the remainder of the articles provided for the rates are ad valorem, but there is a considerable number of articles upon which the rates are compound, i. e., ad valorem and specific combined, as, for example, “30 cents per square yard and 20 per cent ad valorem.” This compound duty often results in very excessive rates, especially where there are low-priced grades or qualities of an article. The tariff act of 1897, paragraph 184, imposed duty on “mica, unmanufactured or rough trimmed only, 6 cents per pound and 20 per cent ad valorem.” There was an importation of mica from Canada made up of the smaller sheets or pieces of mica. That was returned by the appraiser as “mica, unmanufactured,” and appraised at \$3 a ton, and duty was assessed thereon at 6 cents per pound and 20 per cent ad valorem, thus making a duty on an article that was appraised at \$3 a ton of \$120.60 a short ton—over 40 times the appraised value of the article per ton, or 4.020 per cent ad valorem. This rate and amount of duty was sustained by the Board of General Appraisers (T. D.,

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22691) and also by the circuit court on appeal *Myers v. United States* (110 Fed., 940). Congress in the tariff act of 1909, paragraph 91, reduced this duty to 5 cents per pound and 20 per cent ad valorem. This still leaves the duty on a similar article of the same value of over 33 times its value, or 3,353 per cent ad valorem. "Mica" first appeared in our tariff in the act of 1872. In the tariff acts of 1872 and 1883 "mica and mica waste" were on the free list. It was first put on the dutiable list in the McKinley Act of 1890, at 35 per cent ad valorem. Mica is a product of nature and is taken out of the ground with a pick and shovel and does not require any manufacturing process to make it ready for use. Some duties are neither the one nor the other, strictly speaking, but, while specific in some sense, are progressively or conditionally ad valorem. Thus, for instance, if valued at not less than 10 cents per pound and not exceeding 15 cents per pound, 35 per cent ad valorem, and so on. When the rate is either strictly ad valorem or partly ad valorem, or where the duty is regulated in any manner by the value, then the foreign market value or wholesale price of the merchandise is an essential factor in ascertaining the amount of duty to be levied thereon.

Thus the determination of the value is one factor, and the ascertainment of the rate prescribed or contemplated by law is another and entirely different factor, and this work is confided to different officers and is subject to different rules. The procedure in each case is, with some exceptions, as follows:

The importer of the merchandise receives from the shipper the consular invoice thereof provided for in subsections 2 and 3 of section 28 of the tariff act of August 5, 1909, which invoice contains—or should contain—a description of the merchandise according to its usual commercial designation, including its value, discounts, charges, etc., to which there is attached the shipper's declaration authenticated by the certificate and seal of the United States consular officer for that consular district. The importer then makes his entry of the goods under the provisions of section 2785 of the Revised Statutes of the United States and subsection 5 of section 28 of the tariff act of August 5, 1909. He inserts in this entry a description of the goods, a statement of the value of each kind thereof in detail, together with the rate or rates of duty which he considers applicable thereto, and having computed the gross amount of the duty he pays the same at the customhouse. The Government being secured by this payment, the collector of customs usually issues a permit for the delivery to the importer of all the goods except 1 package in every 10 packages included in the importation, but in no case less than 1 package embraced in each invoice. The packages thus retained in the custody of the collector are at once sent to the "public stores," or appraiser's warehouse, for examination and appraisement, and if the goods are found by the appraiser to be correctly invoiced and entered the invoice is noted by the appraiser as correct and approved and is then returned to the collector.

If the importer is not prepared to pay the duties on entry, or for any reason prefers not to do so, he may make entry of his goods, or a part of them, in bond, and deposit them in a bonded warehouse to remain for such time as he desires, but in no case exceeding three years, and may withdraw them whenever and in such quantities as he prefers, paying the duties thereon when withdrawn. When a new tariff act is passed or the existing act is amended in any way affecting the rates of duty the new rates become applicable to all goods remaining in bonded warehouses, unless special provision to the contrary be made in the act, and the importer may withdraw his goods when he pleases (subsection 19 of section 28, act of 1909).

When due entry of goods has been made by the importer the next step in the procedure is

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This is done at the port of New York and the larger ports by examiners under the general direction of the local appraiser and assistant appraisers at the port of entry. These examiners are the persons who practically appraise the dutiable value of merchandise and classify it. At the port of New York hundreds of thousands of dollars in duties depend upon the judgment of one man. The assistant appraiser and the appraiser accept the return of the examiner, and the collector accepts the return as made by the appraiser as a rule. At the smaller ports where there is no appraiser the person acting as such makes the appraisement. The examiner has before him the consular invoice of the goods

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with the collector's notation thereon of the value thereof as specified in the importer's entry, and has also either the package or packages of the goods retained for examination, or a greater proportion, if he considers he needs them and calls for them.

It is required that the entered value of the goods shall be a true statement of their foreign market value or wholesale price in the principal markets of the country from whence exported, and at the date of shipment.

The law presumes that the importer knows the market value of his own goods. If he does not know or fails to state it correctly, his fault or omission in the matter often becomes very expensive to him. If he should fix the value too high, the excessive duty can not be refunded to him, as duty can not be assessed upon a lower valuation than is expressed in the entry. If he places it too low and the appraising officers appraise the goods at a higher value, the law imposes an additional or penal duty of 1 per cent upon the appraised value for each 1 per cent that such value exceeds that declared in the entry.

Under statutes in force prior to the amendment of the customs administrative act of June 10, 1890, by the act of July 24, 1897, such additional duty or penalty was not imposed unless the appraised value exceeded by 10 per cent the entered value of the goods; under the present law, if the appraiser's advance is 1 per cent, the accruing additional or penal duty is 1 per cent; if the advance is 5 per cent, the additional or penal duty is 5 per cent, and so on.

The statutes prescribe explicit rules for the guidance of appraising officers as to the place, time, and other conditions which form the bases of their valuations of all imported merchandise. They are required to find the actual market value or price thereof, in usual wholesale quantities, at the time of its exportation to the United States in the principal markets of the country from whence exported and in condition packed ready for shipment. The market value or wholesale price is the price then prevailing for the merchandise for home consumption in the open market and not in bond for exportation or under any exceptional conditions. Appraising officers are also required by law to make an actual examination of the goods.

The appraising officers of the United States are intended by law to have the independence of judges of courts. They are not subjected to restraint or supervision from any quarter in fixing the value of imported merchandise. Neither can their decision in that regard be altered by the collector or Secretary of the Treasury, nor by the appraising officer himself after he has once made his decision or return upon the invoice. A method of reviewing such appraisement is provided by law. The importer or collector may take an appeal to a single general appraiser, who reviews the whole matter or makes another appraisement *de novo*; and another appeal still may be taken to a board of three general appraisers, either by the importer or by the collector.

When an invoice comes before a single general appraiser or board of three general appraisers, the importer may appear in person and by counsel and testify in his own behalf or present any documentary evidence that he may have as to the value of his goods, and may also produce witnesses to testify in his behalf as to the value. He may have compulsory process from the Government to secure the attendance of such witnesses as he may desire.

The general appraisers, whether acting upon an appeal in the first instance or reviewing the appraisement of a single general appraiser, are presumed to make an independent investigation as to the value of the goods under appraisement.

The hearings may be open and the Government and the importer may be represented by counsel in reappraisement proceedings before a general appraiser or board of general appraisers, in the discretion of said appraisers.

The board of three general appraisers is the tribunal of last resort on the question of value.

The court will not inquire into the mental processes whereby appraising officers reach their conclusions. Whether the matter before them justified or warranted their conclusions is a matter of appraisement within the discretion of those officers, and there is no appeal beyond a board of three general appraisers on the direct question of the dutiable value of any imported merchandise.

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CLASSIFICATION OR RATE OF DUTY.

When the dutiable value of the goods has been finally ascertained, the rate of duty to which the merchandise is subject is determined by the collector of customs at the port of entry, who also decides any incidental or collateral question that may arise and computes the amount of duty. If in this procedure he finds that the importer has paid on entry either not enough or too much duty he notifies the importer accordingly, and an adjustment is made by a further payment or refund—as the case may be—of the difference. Collectors of customs are not in any sense judicial, but ministerial officers. The Secretary of the Treasury is the superintendent of the collection of duties and is authorized by law to instruct collectors as to the “classification” of imported articles for dutiable purposes under the existing tariff laws, i. e., whether free or dutiable, and if the latter as to the particular rate to be imposed, and this power is frequently exercised by the Secretary where collectors at different ports disagree as to the classification, or rate of duty applicable to the particular kind or class of merchandise. The collectors are expected to resolve all reasonable doubts in the matter in favor of the Government, or in favor of the higher rate. In this procedure collectors do not usually give the importer opportunity to be heard; that is, to say, they do not appoint a time for a special hearing and discussion of the matter in which the importer or his attorney shall participate.

If the importer or his representative is dissatisfied with the rate and amount of duty assessed upon the article or articles by the collector, he may, within 15 days thereafter from date of liquidation of the entry file with the collector notice of such dissatisfaction, which notice is called a “protest;” upon such notice and protest the collector is required to transmit the protest to the board of nine general appraisers, which board is divided into three boards of three members each, and each of the boards of three general appraisers, or a majority thereof, has full power to hear and decide the protest, as prescribed in subsections 12 and 14 of section 28 of the tariff act of August 5, 1909.

The importer is required by law to point out in his protest, distinctly and specifically, and in respect to each entry or payment the reasons for his objections thereto, and the particular section, paragraph, or provision of the law he claims to be applicable to his case. If he fails to make the right claim in his protest, he can not recover, even though the collector's decision in the matter was erroneous. Technical precision is not required in protests. Any language that fairly indicates the specific objections, existing in the mind of the importer at the time, is sufficient.

The importer or his attorney and the Assistant Attorney General and his assistants for the Government may appear before the Board of General Appraisers on the hearing of all protests, and may, if they so desire, have compulsory process to secure the attendance of witnesses, and may also then present such other evidence as they may wish. These “hearings” and other proceedings in the consideration of protests are public. The protestants may manage their cases in person or by counsel, as they prefer, and all witnesses may be cross-examined. The functions of this board are of a judicial nature and the procedure assimilates to those in the Federal courts. An appeal from the decisions of a Board of General Appraisers on “protest” may be taken to the United States Court of Customs Appeals, either by the protestant (importer) or the Government, within 60 days after the entry of judgment, and 90 days in Alaska and in the insular and other outside possessions of the United States (sec. 29, act Aug. 5, 1909). There is no other legal method of setting aside the decisions of the Board of General Appraisers; they can not be altered or ignored in any sense by an executive or ministerial officer of the Government. If an appeal is not taken within the prescribed time, the collectors of customs must give effect to the judgment; that is to say, if the decision sustains the importers' claims, the collector must reliquidate the entry and refund the duties collected in excess of those held by the board to be properly assessable. If on the contrary the board's decision overrules the importers' claim or claims, nothing more is to be done in the matter, the proper rate and amount of duty having been paid; though both the decisions of the board and the courts have been practically disregarded and nullified by the Secretary of the Treasury frequently directing the collector to refund the duty decided to be excessive in the particular case decided, but to continue assessing the same rate of duty decided to be excessive on other similar merchandise, thus compelling the importer

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to litigate the same question over again, and during the time the question is in litigation to collect the higher duty, and by this course keeping a settled question open and increasing the amount of customs litigation, which is already abnormally large.

REORGANIZATION OF THE APPRAISER'S OFFICE AT NEW YORK.

Under the present organization of the appraiser's office at New York there are 1 appraiser, 10 assistant appraisers, and a large number of examiners. Practically the examiner is the appraiser and the only officer who examines the goods in most instances. He consults occasionally with the assistant appraiser, but it is believed that it seldom happens that his conclusions are modified either by the assistant appraiser or appraiser.

Each examiner has his own line of goods to pass upon, and frequently one examiner handles one kind of goods for many years. It is his duty to make an actual inspection of the packages—not less than 1 in 10—brought in for examination, and to verify or correct the invoice in the following particulars:

- (1) As to the description and character of the goods and rate of duty.
- (2) As to the quantity thereof, except where they are gauged, weighed, or measured by another officer.
- (3) As to the value.

His action on the first two points is theoretically mere advice to the collector, but as he is the only officer who regularly examines the goods, the collector naturally accepts the facts as reported by him with great regularity.

His action on the third point—value—may be revised or corrected by the assistant appraiser or appraiser, but here again his returns are seldom modified, as it would be an impossibility for the appraiser, or even the 10 assistant appraisers, to examine the goods, and they do not attempt it. After the examiner makes his report the assistant appraiser of his division signs it, and the appraiser's name is stamped thereon in order to comply with the regulations.

The duties on goods passed by one examiner may amount to millions of dollars in a year, and the Government trusts him almost implicitly. The point is that one dishonest examiner could cause the Government a loss equal to the salaries of a hundred and more.

In some instances attempts have been made to audit the work of examiners by special agents, but these officers are regarded as detectives, and an investigation by one of them partakes of the character of a personal affront to the examiner investigated. Why is he selected for inquiry?

The remedy proposed is as follows:

- (1) Abolish the offices of the 10 assistant appraisers as useless.
- (2) Double the number of examiners and require the appraiser or the Secretary of the Treasury to divide them into two classes and to designate one or more as deputy appraiser. Every shipment of goods should be examined by the examiner, who should make his report in writing upon the invoice and then turn it over to a second examiner, who would do the same. If both agree, that is the appraisement, and the invoice should go at once to the collector without a formal and meaningless approval by the appraiser; and if the two examiners do not agree, the appraiser shall personally examine and appraise the goods, and his report shall be final, except in the case of appeal as provided by law. It is believed that there would not be many such cases, but to provide against the contingency of the appraiser not being able to act in all such cases there should be authority for one or more examiners to be designated as deputy appraisers for this purpose.

The examiner who makes the first return should be continued on the same kind of goods indefinitely, in order to get the advantage of experience. The second class of examiners should be shifted, say every six months, but there should be no regular rotation or fixed rule by which anyone could know a long time in advance who the second examiner would be on any kind of goods.

In order to preserve the full authority of the appraiser, he should have discretionary authority to himself examine and appraise any shipment, either before or after one or two examiners had acted thereon, substituting his own report for any previously made. This authority should also extend to reports as to quantity and rate as well as value.

There would be some additional expense, which, however, would be offset in part by the abolition of 10 assistant appraiserships. The money would be well

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spent. It would not only guard against corruption, but against errors of judgment, oversights, and carelessness.

This checking or auditing as a regular system would offend no one, any more than the checking of liquidations by the naval officer offends the collector.

When considering the expenses of the appraiser's office, is it not well to keep in mind the amounts of duty collected? Even \$100,000 a year is a drop in the bucket compared to the half million a day collected at the New York custom-house.

PROPOSED AMENDMENT, SUBSECTION 7, SECTION 28 OF THE TARIFF ACT OF 1909.

That subsection 7 be amended by inserting, after the word "entry," in the seventeenth line, the words "by more than five per centum," and in the twentieth line, after the word "centum," by inserting the words "in excess of five per centum."

It is only reasonable that importers should have a little scope in regard to the difference of the value between the importer's statement of value in his entry and that of the appraisement of the appraiser. It is next to impossible that two men would value the same goods exactly the same, and it seems unfair to exact a penalty if the appraised value exceeds the entered value only 1 per cent. Under the administrative customs act, as passed in 1890 and before the present amendment, no penalty accrued unless the appraised value exceeded by more than 10 per cent the value declared in the entry.

In the sixth paragraph, near the end of said subsection 7, which provides that "the forfeiture provided for in this section shall apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles in each invoice which are under valued," be amended so as to read as follows: "That the forfeiture provided for in this section shall apply only to the particular article or articles of merchandise or the value thereof in each invoice which are undervalued."

It often happens that importers have different kinds of merchandise packed in a single case; and, under the statute as it stands at present, no matter how small an article there might be in the case or package which was undervalued, it would have the effect of forfeiting the whole contents of the case or package in which it is found.

This subsection ought to be further amended by striking out the following: The word "seventy-five," in the twenty-seventh line, and inserting in its place the word "seventy"; all of the twenty-eighth line except the words "article or articles"; all of the twenty-ninth, thirtieth, thirty-first, and thirty-second lines; the word "drawback" in the thirty-third line; all of the fourth and third line from the end of said subsection seven; and the words "of the Treasury" from the second line from the end of said subsection seven.

The administration of the tariff law is sometimes, when strictly construed, very harsh and severe, and the Secretary of the Treasury ought to have power to remit or mitigate forfeitures or disabilities incurred under the tariff act. This would practically leave him the power he has under sections 5292 and 5293 of the Revised Statutes and sections 17 and 18 of the act of June 22, 1874.

The restoration to the Secretary of the Treasury of the right to remit the additional duty, if he was convinced that there was no fraud or intent to defraud, is only justice to the honest importer, as the drastic feature of the law was only intended to deter frauds or attempted frauds on the revenue. This power was never abused when in force, and a case recently before the Board of United States General Appraisers illustrates the harshness of the present law.

An importer brought into the port of New York 100,000 lithographed picture cards, comprising 89 lots of various numbers of cards for each lot. They were purchased in Germany as a job lot at a price for the whole of 15 marks per 1,000, with a discount of 10 per cent. They were not soiled, but were old subjects, and no question was made at the hearing that the importer had not paid the price stated in the invoice for the cards. The appraiser advanced the value 253 per cent, the single general appraiser 150 per cent, and the board of three general appraisers 66 per cent. Testimony was introduced by the importer to show that he had offered the cards to the principal houses in New York City dealing in such cards, and the best price he was offered was a price equal to the invoice price and the regular duty. The total invoice price was about \$300,

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and the regular duty at 25 per cent would have been about \$75. The additional duties under the law of 66 per cent and the regular duties amounted to \$481, which he was obliged to pay and take his goods, and there was no remedy under the law.

Under the former law the Secretary could have remitted the additional duties, but the importer would still have had to pay the regular duty (25 per cent) on the reappraised value of the goods.

Subsection 7 of section 28, if so amended, will then read as follows:

"SEC. 7. That the owner, consignee, or agent of any imported merchandise may, at the time when he shall make and verify his written entry of such merchandise, but not afterwards, make such addition in the entry to or such deduction from the cost or value given in the invoice or pro forma invoice or statement in form of an invoice, which he shall produce with his entry, as in his opinion may raise or lower the same to the actual market value or wholesale price of such merchandise at the time of exportation to the United States in the principal markets of the country from which the same has been imported; and the collector within whose district any merchandise may be imported or entered, whether the same has been actually purchased or procured otherwise than by purchase, shall cause the actual market value or wholesale price of such merchandise to be appraised; and if the appraised value of any article of imported merchandise subject to an ad valorem duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the value declared in the entry by more than five per centum, there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, an additional duty of one per centum of the total appraised value thereof for each one per centum in excess of five per centum that such appraised value exceeds the value declared in the entry: *Provided*, That the additional duties shall only apply to the particular article or articles in each invoice that are so undervalued and shall not be imposed on any article upon which the amount of duty imposed by law on account of the appraised value does not exceed the amount of duty that would be imposed if the appraised value did not exceed the entered value, and shall be limited to seventy per centum of the appraised value of such article or articles. If the appraised value of any merchandise shall exceed the value declared in the entry by more than seventy-five per centum, except when arising from a manifest clerical error, such entry shall be held to be presumptively fraudulent, and the collector of customs shall seize such merchandise and proceed as in case of forfeiture for violation of the customs law, and in any legal proceeding other than a criminal prosecution that may result from such seizure the undervaluation as shown by the appraisal shall be presumptive evidence of fraud and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he shall rebut such presumption of fraudulent intent by sufficient evidence. The forfeiture provided for in this subsection shall apply only to the particular article or articles of merchandise or the value thereof in each invoice which is undervalued. All additional duties, penalties, or forfeitures applicable to merchandise entered by a duly certified invoice shall be alike applicable to merchandise entered by a pro forma invoice or statement in the form of an invoice. The duty shall not, however, be assessed in any case upon an amount less than the entered value.

PROPOSED AMENDMENT, SUBSECTION 14, SECTION 28.

In subsection 14, of section 28, lines 8 and 10, strike out the word "fifteen" in each place and insert the word "thirty" in each place, making it 30 days instead of 15 in which the importer shall have a right to appeal after the ascertainment and liquidation of duties.

The reason for this extension of time to file protest is that the importer has to find out for himself when his duties are liquidated. Notice is not sent him; it is posted in the customhouse, and he may not find it out for some time, particularly if his place of business is some distance from the customhouse; moreover, the period now fixed does not give the importer sufficient time to determine whether he has sufficient grounds for protest, so he will often file a protest to save his rights, and thus increase the expense and delay in the administration of the customs laws when, if he had more time to consider the matter, he might not protest, and thus a great deal of litigation would be avoided.

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PROPOSED AMENDMENT, SUBSECTION 23 OF SECTION 28.

Amend subsection 23 of section 28 by inserting, in line 7, between the words "same" and "out," the following: "with interest at the rate of five per centum per annum."

The result of this proposed amendment will be to give the protestant interest on that part of the duty that has been exacted illegally and is ordered to be refunded. Interest was always paid by the Government in such cases up until the passage of the administrative act of June 10, 1890. There is no good reason why the Government should not pay interest on money decided by the courts to have been illegally exacted and detained. It has had the use of it and the protestant has been illegally deprived of its use, and his fortune and credit have often been ruined and destroyed by these illegal exactions; and the fact that no interest has been paid has often induced Government officials to continue unnecessary litigation for the reason that if the litigation was unnecessarily prolonged and finally decided against the Government it would not have to pay any interest and would have had the use of the money in the meantime without interest. Frequently protestants have had to borrow money to pay these illegal exactions and pay interest thereon.

The case of *United States v. Citroen*, decided in the United States Supreme Court on appeal February 19, 1912 (223 U. S., 407), illustrates the hardship of the Government exacting excessive and illegal duties and paying no interest thereon and compelling the importer to sue to get his money back. The merchandise in this case was imported at the port of New York in March, 1907, and was appraised at \$220,000, and the collector assessed duty at the rate of 10 per cent. About a week after the payment of the 10 per cent duty the collector, under instructions from the Secretary of the Treasury, demanded an additional duty of 50 per cent, amounting to \$110,355. There was no claim the importer had done any wrong. The Government officials simply changed their minds about the rate of duty. The importer paid this additional amount April 6, 1907, under protest, and immediately brought suit to recover it back; that suit lasted until February 19, 1912. These duties so illegally exacted, amounting to \$110,355, were refunded to him on April 1, 1912, the exact amount he had paid five years before. He did not receive any interest or any costs or his expenses. The Government had the use of his \$110,355 without interest for five years, which he had to borrow and pay interest for, amounting to between \$25,000 and \$30,000. This is substantially true in every case where the duties are excessive and illegal.

Subsection 23, if amended as proposed, would read as follows:

"SEC. 23. That whenever it shall be shown to the satisfaction of the Secretary of the Treasury that, in any case of unascertained or estimated duties, or payments made upon appeal, more money has been paid to or deposited with a collector of customs than, as has been ascertained by final liquidation thereof, the law required to be paid or deposited, the Secretary of the Treasury shall direct the Treasurer to refund and pay the same with interest at the rate of five per centum per annum out of any money in the Treasury not otherwise appropriated. The necessary moneys therefor are hereby appropriated, and this appropriation shall be deemed a permanent indefinite appropriation; and the Secretary is hereby authorized to correct manifest clerical errors in any entry or liquidation, for or against the United States, at any time within one year of the date of such entry, but not afterwards: *Provided*, That the Secretary of the Treasury shall, in his annual report to Congress, give a detailed statement of the various sums of money refunded under the provisions of this act or of any other act of Congress relating to the revenue, together with copies of the rulings under which repayments were made."

FRIVOLOUS AND TRIVIAL APPEALS. PROPOSED AMENDMENT OF SUBSECTION 29 OF SECTION 28.

That subsection 29 of section 28 be amended as follows: By inserting between the words "*Provided*" and "*That*," in line 37, "that no appeal shall be taken from any decision of the Board of General Appraisers unless the amount involved in the appeal or in other pending protests on the same issue exceeds \$100."

It is believed this provision will prevent a considerable proportion of the appeals such as are now taken to the Court of Customs Appeals, without affect-

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ing the substantial rights of anyone. The reason for including "other pending protests on the same issue" is that excessive assessments may be very small on a single protest, which applies only to one shipment, but there may be a large number of such assessments, amounting in the aggregate to considerable sums. In such cases, a court decision on a small case establishes a rule to be followed by the board in all like cases. Therefore, the limitation to \$100 involved in the particular case on appeal would cut off the appeal in some matters of importance.

Appeals are often taken by the Government officials from the decisions of the board at the instigation of protected interests, for the purpose of keeping in force the exaction of excessive and illegal duties between the time the case is decided by the Board of General Appraisers and it can be determined finally on appeal, when it is evident that the Government can not succeed in the appeal, so that the interested parties can have the benefit of the higher duty as long as possible. This course has been followed in the past, even in some instances against the disposition of the Secretary of the Treasury, but where the protected interests have been so influential as to cause the Treasury Department to take an appeal against its own judgment. Concrete cases of this character can be cited. A case in point is what is known as the piano-hammer case. (T. D. 20360, 21590, 21643, 23096, 23170).

THE BOARD OF GENERAL APPRAISERS.

The board should be continued substantially as at present, a few changes being desirable. The purpose of Congress is undoubtedly to have the law carried out as made. In cases of doubtful interpretation every consideration should be subordinated to ascertaining and making effective the will of Congress, regardless of whose interests are affected. The interpreting tribunal should therefore be independent of official or political influence.

The present laws make the board as nearly independent as they can, but its status should be much more clearly defined than at present. The mere title of court carries with it more independence than general appraiser. Public opinion prevents attempts, even on the part of a President or a Secretary of the Treasury, to interfere with or dictate to a judge or court. As to general appraisers, there is no public opinion, as the general public throughout the country does not know of their existence. If we are not to have a court instead of the board, certainly nothing should be done to weaken the independence of the board as at present constituted.

There are many people who, having failed to get Congress to impose a rate of duty to suit them, would like to have a pliable officer whom they might get to construe away the law and thus obtain, in part at least, what Congress refused. Some of these people may be in favor of higher duties, and others may want reductions. Sometimes these efforts are made through the medium of changed valuations and sometimes through change of rate. Some of them favor the abolition of the board; others would reduce its powers, or make it more difficult to try cases before it. The tendency should be the other way. It is to be regretted that the present procedure of the board makes it almost necessary for importers to employ lawyers in all cases. The less difficulty there is about presenting a case to the board the more probability there is of the real purposes of Congress being carried out. Parties interested in having a certain duty imposed should address themselves to Congress, and when Congress has fixed the duty there should be the least possible chance to evade it.

It seems necessary to have a tribunal, whether board or court, to pass upon questions under the customs laws in the first instance. There is a mass of detail to be handled, and the jurisdiction should therefore be limited to customs cases. Assuming, then, that the board will be continued substantially as at present, either with the name of board or court, we come to one or two suggested changes.

The present law contemplates decisions by a board of three general appraisers or a majority of them. The practice is for the record to be sent to one general appraiser, who reaches a conclusion, prepares the opinion, and signs it. The opinion alone is then sent to the other one or two general appraisers, who as a rule do nothing but read the opinion and sign it. Of course, there are cases where there are consultations between the members of the board, but very many cases are decided by practically one member, and it is believed many mistakes are made for that reason which would be avoided if all cases were

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carefully considered by at least two. The following provision is suggested, to be added to subsection 12 of section 28, act of 1909:

"Each general appraiser participating in a decision shall sign a statement that he has heard or read the testimony, if any was taken, and has examined all the exhibits and official papers."

Particularly should there be a provision designed to prevent members of the board from acting as lobbyists participating in legislation which is later to be adjudged by themselves, or otherwise adopting courses of conduct which would not be tolerated in the case of Federal judges.

REAPPRAISEMENTS.

Reappraisal hearings should be open to the importer as well as the Government representative, and both sides should be permitted to see and cross-examine the witnesses for the other side. This is authorized by the present law, but should be required in all cases. Secrecy makes for injustice more than any other one thing. The argument in its favor is that merchants will not tell their business secrets in the presence of their competitors. If not, their testimony had better not be taken at all, as the witness is tempted to injure his competitor by placing too high a value on his goods, knowing that he will not be found out, and even with honest men they may mistakes that could be easily corrected if made in the light of day, but which result in injustice when made in a star-chamber proceeding.

In subsection 13 of section 28, act of 1909, the following should be struck out, especially the italicized words:

"In such cases the general appraiser and boards of general appraisers shall proceed by all reasonable ways and means in their power to ascertain, estimate, and determine the dutiable value of the imported merchandise, *and in so doing may exercise both judicial and inquisitorial functions.* In such cases hearings *may, in the discretion of* the general appraiser or board of general appraisers, before whom the case is pending, be open and in the presence of the importer or his attorney and any duly authorized representative of the Government, who may in his discretion examine and cross-examine all witnesses produced."

The following is proposed as a substitute for the foregoing:

"In such cases the general appraisers and boards of general appraisers shall give reasonable notice to the importer and the proper representative of the Government of the time and place of each and every hearing at which the parties or their attorneys shall have opportunity to introduce evidence and to hear and cross-examine the witnesses for the other party and to inspect all documentary evidence or other papers offered. Hearsay evidence and unsworn statements shall not be admitted, but sworn affidavits of persons whose attendance can not be procured may be admitted in the discretion of the general appraiser or board of general appraisers. Each general appraiser before deciding or participating in a decision shall inspect the goods or agreed samples thereof and shall consider the testimony or other evidence admitted at such hearings and nothing else."

THE COURT OF CUSTOMS APPEALS CREATED BY THE TARIFF ACT OF 1909.

This court should be abolished for at least three reasons:

(1) A court confined to a single line of cases can not maintain in itself the breadth of view and the true relation of things as can be done by courts having more variety of jurisdiction. The appeal should lie from the Board of General Appraisers to the regular United States circuit court of appeals for the circuit where the port of entry is situated. It may be argued, and perhaps with reason, that the decisions of the Court of Customs Appeals have been more favorable to the Government than those of the circuit court of appeals, but this is impossible of determination. Even if it be so, what Congress desires is correct decisions, not decisions imposing higher duties than intended by Congress, and there is probably no stronger or better judiciary in the world than that of the regular United States courts. Special courts with limited jurisdiction have never been satisfactory in this country. There is but little honor for a judge of a special court, while there is a great deal for a judge of the circuit court of appeals.

(2) There is not enough business for the court. It is a probable consequence of this that the opinions are long and involved. The number of appeals decided

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is not an indication of their importance, as many of the appeals involve less than \$50 each. The whole subject of the amounts involved in protests and appeals has been exaggerated, since actual figures compiled by the Treasury Department show that the refunds on protests amount to less than one-half of 1 per cent of the collections from duties.

(3) Parties in distant parts of the country should not be required to travel to Washington to try their cases. It is a considerable expense and inconvenience even to parties in New York, where most of the cases arise. No cases at all arise in Washington.

PROPOSED AMENDMENT TO THE SIMILITUDE CLAUSE.

In the tariff act of 1909 this is paragraph 481. In the act of 1897 it was section 7. This entire provision should be dropped from the law, except the clause defining component material of chief value. The entire paragraph is as follows:

"That each and every imported article not enumerated in this section which is similar, either in material, quality, texture, or the use to which it may be applied, to any article enumerated in this section as chargeable with duty, shall pay the same rate of duty which is levied on the enumerated article which it most resembles in any of the particulars before mentioned, and if any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable there shall be levied on such non-enumerated article the same rate of duty as is chargeable on the article which it resembles paying the highest rate of duty, and on articles not enumerated, manufactured of two or more materials, the duty shall be assessed at the highest rate at which the same would be chargeable if composed wholly of the component material thereof of chief value, and the words "component material of chief value" wherever used in this section shall be held to mean that component material which shall exceed in value any other single component material of the article, and the value of each component material shall be determined by the ascertained value of such material in its condition as found in the article. If two or more rates of duty shall be applicable to any imported article, it shall pay duty at the highest of such rates."

In considering a similar provision in the act of 1842 the Supreme Court said:

"In the first place, then, it must be observed that the twentieth section of the act of 1842 does not impose any particular rate of duty upon imports. It was designed to afford rules to guide those employed in the collection of the revenue in certain cases likely to occur not within the letter but within the real intent and meaning of the laws imposing duties, and thus to prevent evasions of those laws. Manufacturing ingenuity and skill have become very great, and diversities may be expected to be made in fabrics adapted to the same uses and designed to take the same places as those specifically described by some distinctive marks for the mere purpose of escaping from the duty imposed thereon. And it would probably be impossible for Congress, by legislation, to keep pace with the results of these efforts of interested ingenuity. To obviate, in part at least, the necessity of attempting to do so this section was enacted.

STUART V. MAXWELL (16 HOW., 160).

That purpose has been completely lost sight of in later years, and it is believed that in the majority of cases where it has been applied it has defeated the purpose of Congress. It is difficult to form an opinion as to whether, on the whole, it has operated more favorably to the Government or the public, but it has been productive of much litigation.

It is also misleading, because it modifies the meaning or effect of provisions in various parts of the law.

Probably the first case that adopted a wrong interpretation of this clause was *Hahn v. Erhardt* (100 Fed. Rep., 635), where the goods in question were handles for penholders, knives, etc., made of agate. Agate was held to be a precious stone, but these articles were not precious stones because they were manufactured articles made from precious stones. The court said:

"Finally, the board has held that they are similar in material with that particular species of precious stones which is known as agate and which, while it remains a stone, is embraced within the descriptive form of paragraph 480.

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Inasmuch as the material is identical, i. e., similar or alike in all respects, the soundness of this conclusion of fact is not open to dispute." (Italics ours.)

That case was followed for several years, until finally the court held that, where a paragraph of the law provided for "fire brick weighing not over 10 pounds each," this similitude clause put into it fire brick of greater weight, because the material was identical, which was similar. This was the logical result of the first error, but was certainly the *reductio ad absurdum*. *United States v. Behrends* (167 Fed. Rep., 317).

Another court held *contra*, that identity of material was not similarity, *Schoenemann v. United States* (119 Fed. Rep., 584), but that simply created more uncertainty.

The vicious effect is still going on, as shown by a recent decision of the Court of Customs Appeals. When Congress provided for articles composed of artificial silk or imitation horsehair (par. 405, act of 1909), they had no thought of providing for articles of real horsehair, but the similitude clause put real horsehair hats into that category at a duty of 45 cents per pound, plus 60 per cent *ad valorem*. These horsehair hats are made of braids, and the braids of real horsehair are dutiable at 15 per cent or 20 per cent, according to whether colored or not, under paragraph 422.

There are many other decisions of varying degrees of reasonableness.

It is also difficult to see why the clause was limited to articles similar to something "chargeable with duty." If the principle was a good one, why not admit free any nonenumerated article similar to something in the free list?

The same paragraph also contains a provision that "if two or more rates of duty shall be applicable to any imported article it shall pay duty at the highest of such rates." If Congress at one time fixes one rate of duty, and later, through oversight, fixes another rate in the same act, would it not be more reasonable to give the citizen the benefit of the doubt? The latest case where this clause was applied was *Woolworth v. United States* (T. D., 31119).

The following portion of paragraph 481 can be retained in the law as it is, viz:

"The words 'component material of chief value' wherever used in this section shall be held to mean that component material which shall exceed in value any other single component material of the article; and the value of each component material shall be determined by the ascertained value of such material in its condition as found in the article."

This is merely declaratory of the law as laid down in *Seeberger v. Hardy* (150 U. S., 420). As it should apply, however, to provisions where the wording is "composed wholly or in chief value of," and perhaps other collocations of similar purport, as well as to clauses containing the exact form "component material of chief value," it would be an improvement to make it read:

"The component material of chief value in any imported article shall be that component material which shall exceed in value any other single component material, and the value of each component material shall be determined by the ascertained value of such material in its condition as found in the article."

PROPOSED AMENDMENT OF WEARING APPAREL, PARAGRAPH 709, TARIFF ACT 1909.

That paragraph 709 be amended by striking out the following part of the proviso of said paragraph: "but no more than one hundred dollars in value of articles purchased abroad by such residents of the United States shall be admitted free of duty upon their return."

This paragraph relates to wearing apparel, articles of personal adornment, toilet articles, and similar personal effects, and is chiefly administrative. This limitation of \$100 exemption on personal effects applies only "in case of residents of the United States returning from abroad," and does not apply to Americans who have acquired a residence abroad, no matter how short, nor to foreigners coming here to remain or temporarily.

This limitation of \$100 was never applied to residents returning from abroad until the tariff act of 1897.

The introduction of this provision of limiting the exemption of wearing apparel to \$100 to residents returning from abroad was introduced into this section at the suggestion of certain retail dealers in 1897; and it was by no means a general demand. It has been the source of a great deal of humiliation, annoyance, and personal indignity both to women and men arriving home from

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abroad. Their oaths are not taken as conclusive as to their belongings, while the oath of a nonresident is taken as conclusive, thus encouraging people to swear they are nonresidents. (*Martin v. U. S. Cust. App.*, 134.)

This paragraph so amended would read as follows:

"Paragraph 709. Wearing apparel, articles of personal adornment, toilet articles, and similar personal effects of persons arriving in the United States; but this exemption shall only include such articles as actually accompany and are in the use of, and as are necessary and appropriate for wear and use of, such persons for the immediate purposes of the journey and present comfort and convenience, and shall not be held to apply to merchandise or articles intended for other persons or for sale: *Provided*, That in case of residents of the United States returning from abroad all wearing apparel and other personal effects taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established, under appropriate rules and regulations to be prescribed by the Secretary of the Treasury."

PROPOSED AMENDMENT OF STATUTE OF LIMITATIONS, ACT 1874 (ACTION OF COLLECTOR).

The purpose of Congress since 1874 has evidently been to allow the collectors of customs one year in which to make a final settlement of duties, except where there is fraud, and to permit them to summarily correct their decisions within that time, regardless of whether the error was one of law or fact, of judgment or of computation. But the law, which was enacted in 1874 and has not been amended since, is so obscure and ambiguous that its meaning has not yet been settled, and it does not fully cover the ground. It is as follows:

"That whenever any goods, wares, and merchandise shall have been entered and passed free of duty, and whenever duties upon any imported goods, wares, and merchandise shall have been liquidated and paid, and such goods, wares, and merchandise shall have been delivered to the owner, importer, agent, or consignee, such entry and passage free of duty and such settlement of duties shall, after the expiration of one year from the time of entry, in the absence of fraud and in the absence of protest by the owner, importer, agent, or consignee, be final and conclusive upon all parties." (Act June 22, 1874, sec. 21, 18 Stat. L., 190.)

The objection to this section will here be stated, followed by a proposed section to take its place:

(1) It deals only with reliquidations, not liquidations. The law nowhere prescribes any limit of time within which a collector must complete his ascertainment or liquidation of duties. If he once liquidates, the above section prevents him changing or correcting that liquidation more than a year after the date of entry.

In one case an entry was apparently mislaid in the customhouse for eight years, when the collector made the first liquidation, brought suit against the importer for the excess duty which he found due, and recovered about \$900. (*United States v. De Rivera*, 73 Fed. Rep., 679.)

Other cases holding that there is no limitation on the first liquidation are *Grandolfi v. United States* (74 Fed. Rep., 549); *Abner Doble Co. v. United States* (119 Fed. Rep., 152); *Pacific Creosoting Co. v. United States* (T. D. 32346).

The collectors are not required to notify importers of their liquidations, but simply to post a list of liquidations daily in the customhouse. If the importer fails to take notice of the liquidation and files a protest within 15 days thereafter, the liquidation is conclusive upon him. He should not be required to examine these lists daily for years in order to preserve his rights. There should come a time, to be fixed in the discretion of Congress, when he may know that the account is closed; that his liability is ended. The collector should be given as much time as is considered necessary for the protection of the Government's interests and no more.

The collector's power to reliquidate old entries quite often operates against a single importer and not against others. Let us suppose there are several parties importing one kind of goods in common and that one of them imports another kind of goods also. The collector suddenly decides that he has been passing the goods imported by all at too low a rate. It is impossible for him

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to go back and pick out all old entries embracing that kind of goods, as far as the statute of limitations would permit, and he does not attempt it, but applies his new interpretation of the law to subsequent liquidations. But if some question happens to arise about the one man's shipments of a different sort of goods, the collector will reliquidate the entire contents of his entries and he will have to pay additional duties on shipments that arrived at the same time as his competitor's, from whom no additional demand is made. In order, therefore, to preserve as far as possible the equal treatment of different taxpayers the period of limitation should not be unduly extended.

(2) The time of entry is not the proper date for the statute to begin to run. It should begin when the entry is ready for the collector's action, which is usually the date on which the values of all the goods on the entry have been finally fixed, either by the local appraiser without appeal or by a single general appraiser without further appeal, or by a board of three general appraisers. Cases occur where the Board of General Appraisers consumes considerable time in the investigation and consideration of reappraisements.

In some instances the appraisements may be completed and the entry may not be ready for final liquidation, on account of the absence of the consular invoice or other papers, for the production of which bond is given at the time of entry.

It is suggested, therefore, that the statute begin to run when all the appraisements are completed or when all the papers are complete; that is to say, the later of the two dates. The reason for saying "all the appraisements" is that sometimes several invoices of different sorts of goods are embraced in one entry, and the collector always liquidates the entire entry at one time. One invoice may be appraised at a different date from another, so it is necessary to wait for the appraisement of the last invoice on the entry.

(3) The purpose of the exception of goods not yet delivered to the importer is evidently to permit a reliquidation under a new tariff act of goods remaining in bonded warehouse, in accordance with provisions like subsection 19 of section 28, tariff act of 1909. When goods are entered in bond the appraisement and liquidation are proceeded with at once, only the delivery and payment being delayed. A new act containing a provision like subsection 19 therefore requires a considerable number of reliquidations. The proposed section makes an exception of such entries, but will do no harm if Congress should see fit to repeal subsection 19.

(4) The words "in the absence of protest" have caused much uncertainty. Collectors have generally taken the ground that the filing of any protest would permit any reliquidation whatever on the entry at any time, including changes in the duty previously assessed on goods not referred to by the protest at all. An entry may have two or more kinds of goods entirely foreign to each other. One entry made by an express company or forwarding agents often embraces goods for many owners. Usually an entry includes all merchandise on one ship for one importer or consignee. The protest usually relates to only one class of goods. So the filing of a protest on one kind of goods on an entry should not affect anything else merely because it is on the same entry.

Collectors also have raised the duty above their original assessments more than a year after entry on goods covered by a protest claiming a lower duty. The Board of General Appraisers recently rendered a decision apparently disapproving this but suggesting that the statute did not run during the pendency of the protest, but that after it was decided the collector might reliquidate sustaining the protest and then reliquidate again restoring his second liquidation. (T. D. 32581.) This decision has been appealed by both the Government and the importers and is pending in the Court of Customs Appeals. If the court should affirm the board, there would be an end to the finality of both board and court decisions. The proposed section cuts off the power of the collector to reliquidate after the filing of the protest, as to goods protested, except where the protest is sustained, when he can, of course, reliquidate in accordance with the board or court decision. This is the only sensible procedure. The protest is practically an appeal from the collector's decision and should not be filed until his decision is made beyond recall.

In the following section the period allowed the collector is eight months for the collector alone. This is thought to be about equivalent to the purpose of the present law, which allows one year for both appraiser and collector. The great majority of liquidations at the port of New York are made within three months after entry and at other ports in much less time.

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PROPOSED SUBSTITUTE SECTION FOR SECTION 21, ACT OF JUNE 22, 1874, 18 STATUTES AT LARGE, 190.

"That the liquidation of duties shall be made within eight months after the final appraisement of all the merchandise embraced in the entry, or within eight months after the production of any papers for the production of which bond was given at the time of making the entry. In case of failure to make the liquidation within the time hereinbefore prescribed, the entry shall be deemed to be liquidated without change as of the date on which such time expires. Any entry may be reliquidated within the time hereinbefore prescribed to correct errors either for or against the United States, but when protest is filed no further reliquidation shall be made as to goods protested, except to comply in whole or in part with one or more claims made in such protest. This section shall have no application to fraudulent entries or entries accompanied by fraudulent invoices or other papers, and shall not prevent the reliquidation of duties on any goods in bond or otherwise in the possession of the customs officers when such reliquidation is required by any act of Congress."

It is believed if these amendments suggested were adopted and put in the form of law:

There would be fewer appeals from appraisements and a less number of protests filed.

The form of the customs administration law could be greatly improved. It is now found partly in the Revised Statutes, partly in the acts of June 22, 1874, March 3, 1875, and sections 20 and 21 of the act of July 31, 1894, and in the tariff act of August 5, 1909. There are also some sections in the Revised Statutes that are obsolete.

I would suggest the appointment of a commission to rearrange and consolidate the various sections of the Revised Statutes and the acts of Congress and simplify the language of all the statutes bearing on the subject of administration of the customs law.

In the three years of 1894, 1895, and 1896 the average number of protests filed a year was 21,364.

In the three years of 1910, 1911, and 1912 the average number filed a year was 94,472, each protest was an appeal from the rate and amount of duty assessed by the collector to the Board of General Appraisers, and each was a case to be decided.

About four-fifths of these protests were from the port of New York, the remainder from the rest of the country, including Alaska and our insular possessions.

In the year 1900 there were 2,561 appeals from appraisements to a general appraiser, of which 2,080 were from the port of New York and 481 from all other ports.

In the year 1912 there were 5,796 appeals from appraisements, of which 4,543 were from the port of New York and 1,253 from all other ports.

These figures show an unwarrantable increase in the number of protests and appraisement cases, and that importers in at least this number of cases believed they had not been fairly and justly dealt with in the administration of the customs laws.

There is entirely too much litigation in respect to the administration of the customs laws between the Government and the people. It is an old maxim fixed in the law of fundamentals: "That it concerns the State, that there be an end of litigation."

W. J. GIBSON.

TESTIMONY OF JAMES L. GERRY.

The witness was duly sworn by the chairman.

Mr. GERRY. Mr. Chairman and gentlemen, I have asked for time to address you in regard to the matter of customs administration. I am a practicing attorney in New York, and I want to say in the start-out that I do not hold any brief for anybody on this subject.

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The CHAIRMAN. Mr. Gerry, will you let me ask you a question about another matter? The question of undervaluation has been raised here. You have been in the customs service?

Mr. GERRY. Yes, sir.

The CHAIRMAN. Did you at any time make an examination of undervaluation?

Mr. GERRY. I did, sir.

The CHAIRMAN. When was that made, Mr. Gerry?

Mr. GERRY. To the best of my recollection at this time, it was between 1904 and 1905, I should say it was.

The CHAIRMAN. Did you make it under the direction of the Secretary of the Treasury?

Mr. GERRY. Leslie M. Shaw.

The CHAIRMAN. He directed you to make it?

Mr. GERRY. Yes, sir.

The CHAIRMAN. What was the result of your investigation?

Mr. GERRY. The Secretary sent for me. He wanted to make a speech, and in this speech he wanted to develop the proposition as to the extent of undervaluation with respect to the importation of merchandise. He asked me whether I could give him any information on the subject. I had instructions issued to the appraiser at New York, Mr. Whitehead, and he took the invoices for a given period—I think it was six months—and compared the entered values as shown on the entries and in the invoices with the liquidations and the subsequent returns of the appraiser on those invoices, and tallied them up, and it was estimated, after they had worked on this proposition for some days, that the actual increase made by the appraiser as compared with the added values, disclosed a so-called undervaluation of approximately one-tenth of 1 per cent. Those papers are on file in the Treasury Department, and if you should call for them, you can find that whole proposition spelled out. Now, there may be some suggestion to the effect that these figures only disclose the undervaluation in so far as it is apparent on the face of the papers and that they do not disclose any undervaluation which had not been discovered up to that time. My impression is that if you were to take those figures—and they were estimated on the importations at the port of New York, where the importations are practically 60 per cent of the total importations of the country—and then take a report from the Treasury Department with regard to the undervaluations which have been disclosed during the past administration and while Mr. Loeb was collector of the port of New York, and add them to it, and make a comparison on that basis, you would find that the undervaluations were not very excessive.

The situation is one that is extremely difficult, and I want to say that even with regard to this one-tenth of 1 per cent you have to take into consideration the fact that these entries may not have disclosed any undervaluation at all. It may have been simply a proposition where a man brought the merchandise in and the examiner could see that it was worth so much, and the man at that time was not in a position to disprove the statement of the examiner. But even that one-tenth of 1 per cent does not indicate any undervaluation. The fact is that during nine years, more or less, control of the situation in regard to the importation of merchandise in the Treasury Department

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I have found that the vast majority of importers have absolutely no disposition to undervalue their merchandise. You must bear in mind, of course, that these people are doing business in competition with American manufacturers and it is their business to get their goods in as low as they can, and there is more or less antagonism between the Government and the importers as to what the valuation is; but personally my experience has been that the vast majority of importers of this country are entirely willing to either disclose their books, show their invoices, or to do anything in their power to give the Government all the information as to what the values are.

Mr. FORDNEY. Mr. Gerry, there have been recent prosecutions in the last few years?

Mr. GERRY. There have been.

Mr. FORDNEY. For fraud, for undervaluation, and in many other ways?

Mr. GERRY. There have been.

Mr. FORDNEY. One gentleman spoke this morning about a company paying back a million dollars?

Mr. GERRY. Yes, sir; I do not know of any lawyer in the city of New York who has a higher regard for what has happened in the past few years than I. In regard to the sugar company, I want to say that the sugar company paid the Government \$170,000 on account of drawback.

Mr. FORDNEY. Was that the Arbuckle Co.?

Mr. GERRY. That was the American Sugar Refining Co. With regard to the question of drawback, they paid \$170,000. Any investigation by the Treasury Department to-day will disclose that they did not owe such a sum.

Mr. FORDNEY. Do you mean to say, then, that an investigation to-day would show that the American Sugar Refining Co. were unjustly required to pay back a certain sum of money?

Mr. GERRY. Yes, sir.

Mr. FORDNEY. Then they have a claim against the Government?

Mr. GERRY. No; I do not think that they have a claim against the Government, because they settled this by a compromise. But if you ask me whether I think that the American Sugar Refining Co.—and I am not their counsel—were unjustly treated on the subject of drawback, I say that that is so.

Mr. HAYS. Were they not charged with shifting weights?

Mr. GERRY. That is a different proposition. They had manufactured sugar and exported it, and the Treasury Department had made regulations under which they exported their merchandise. It was a very difficult proposition to determine. The sirup carried a certain drawback that was payable; they were allowed 36 per cent of the market value of the sirup. There was some question raised to the effect that they had used in this exported sirup sugar that had been imported from Cuba and that that sugar was subject to a preferential of about 20 per cent, and that in this whole scheme there was fraud.

Mr. FORDNEY. There was no fraud by undervaluing the percentage of sugar and the weight?

Mr. GERRY. No, sir. When you bring in raw sugar there is a certain amount of refined sugar, according to the polariscopic test, that

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will come out. Each hundred pounds of sugar will produce so much refined sugar, according to the saccharine percentage. When you have 90° raw sugar you may get 80 per cent refined sugar, if it is 86° sugar you get less refined sirup. The sirup is thrown off in the centrifuges. The sirup carried a drawback on its refining value. In their melts they had sugar that had been brought here from Cuba, and there was a question of the possible identification of this sugar in the melts. In the light of the original proposition in respect to the weighing, this question of the drawback was brought up. When Mr. Thomas was approached with the theory of contesting the question raised by the Government he did not want to go into court and fight the issue on account of the notoriety; but the Treasury Department took some \$770,000, and, to my information and belief, it was \$170,000 more than they ought to have taken.

Mr. FORDNEY. So that they paid it to avoid notoriety?

Mr. GERRY. I would not say that.

Mr. HILL. Do you mean that the merchandise was undervalued one-tenth of 1 per cent and that such undervaluation resulted in a loss of one-tenth of 1 per cent in duties?

Mr. GERRY. That is the idea. Having the duties on one side and the actual amount collected in duties on the other side, it amounted to one-tenth of 1 per cent.

Mr. HILL. The \$770,000 dutiable goods did not, of course, affect the question of free goods?

Mr. GERRY. No, sir.

Mr. HILL. The entire valuation only amounted to \$770,000 in duty?

Mr. GERRY. Yes. I have forgotten the exact figures, Mr. Hill.

Mr. HILL. But suppose there had been \$770,000 in duties. What percentage of that would have been undervalued?

Mr. GERRY. If there were \$330,000 in duties and only \$220,000 collected, that would have been 66 per cent. Taking that as a basis, the amount of duties on advance amounted to one-tenth of 1 per cent.

Mr. HILL. Such goods as were imported were imported at a loss in revenue to the Government of one-tenth of 1 per cent?

Mr. GERRY. Yes, sir.

Mr. HILL. That is very small.

Mr. GERRY. Yes, sir.

Mr. HILL. It would not be as much as the Government has collected on china alone?

Mr. GERRY. I think so.

Mr. HILL. Is it not true that there was as much as that collected on French china?

Mr. GERRY. Yes, sir.

Mr. HILL. What was shown up in the suits was a good deal more than your one-tenth of 1 per cent on china alone?

Mr. GERRY. I could not answer you intelligently on that, Mr. Hill.

Mr. HILL. There have been a good many collections made on account of fraudulent paintings?

Mr. GERRY. I do not think that had anything to do with the question of values. If you refer to the De Vinne case, they were convicted on the proposition that they brought in cabinets with paintings concealed inside or paintings with other paintings underneath them.

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Mr. HILL. That directly affected the question of what was brought in.

Mr. GERRY. Yes, sir.

Mr. HILL. Have there not been quite considerable sums collected on woolen goods that were undervalued?

Mr. JAMES. That would be more like smuggling.

Mr. GERRY. Yes, sir.

The CHAIRMAN. They were trying to effect a direct fraud in this De Vinne case?

Mr. GERRY. Absolutely.

Mr. FORDNEY. What about the woolen situation?

Mr. GERRY. The woolen situation was one where sample cases were not charged on the invoice. The elimination of the sample cases cut off about one-eighth of a cent. There was a sliding scale there and they came in at the lower scale. Wherever you have a sliding-scale proposition you offer the greatest inducement for fraud that could be offered. I think, Mr. Fordney, that if you had a strict ad valorem duty it would be very much better in every instance than to have a sliding scale, where the rate of duty changes at different places, because, manifestly, the tendency is to undervalue. You can not help it.

Mr. HILL. That does not occur, however, in a straight, specific duty?

Mr. GERRY. No, sir.

Mr. HILL. The question of undervaluation does not arise in a straight, specific duty?

Mr. GERRY. No, sir.

The CHAIRMAN. You mean where there is a duty of \$2.50 levied on pig iron?

Mr. GERRY. Yes, sir.

The CHAIRMAN. But where you have a duty like we have on cotton goods, you think the question of undervaluation comes in?

Mr. GERRY. There is always the tendency to shade the thing in some way. For instance, take the proposition of raw wool. It is brought in here, and if it is less than 12 cents a pound you pay 4 cents, if it is more than 12 cents a pound you pay 7 cents. You go out into China or Manchuria and start in to buy wool and your instructions are: "Don't ship me any wool that is high-duty wool," and your agent over there says: "I will do it." But he is on a commission, a perfectly bona fide commission, and he goes out into the market. Suppose he can not purchase this wool within the low-duty limit; suppose he can not do it. What does he do? He shades the duty and the American importer does not know anything about the situation, and he is charged with fraud.

Mr. FORDNEY. Is it not a fact that most of the wool is sold at auction in England?

Mr. GERRY. No, sir; you can buy Manchurian wool right out on the steppes.

Mr. FORDNEY. That is true; but I have been told by woolen men that you can go to the Australian market and when the price gets up to 12 cents, the American bidder stops until the bidding gets to 15 cents, because the duty is increased between 12 cents and 15 cents. He will not buy any wool at 13, 14, or 15 cents a pound.

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Mr. GERRY. I have heard several propositions of that kind. The reason is that by an interjection of your 12-cent limit your American buyer is at a disadvantage. When we come to the 12-cent limit the Englishman knows we are at a disadvantage. We can not buy wool as advantageously as the English.

Mr. FORDNEY. That is carpet wool you are speaking of?

Mr. GERRY. Yes, sir.

Mr. FORDNEY. Only carpet wool is affected in that way?

Mr. GERRY. Yes, sir.

Mr. FORDNEY. And as a rule, carpet wool comes up to the price?

Mr. GERRY. Well, there is a limit.

Mr. FORDNEY. When the price goes up the profit goes up?

Mr. GERRY. There have been several woolen men who have asked me to come here and whether I would make some representation in regard to them. I think it would be well to make some provision with regard to carpet wool whereby this line duty could be eliminated. It would be less expensive to the Government because for years and years and years—

Mr. PAYNE (interposing). The only thing to do with carpet wool is to put it on the free list, and that will be the end of our troubles. When was this report made?

Mr. GERRY. In 1905.

Mr. PAYNE. How long a period did it cover?

Mr. GERRY. About six months.

Mr. PAYNE. What did it cover? The entire importation for that six months?

Mr. GERRY. No, sir. This report was made on the information before the appraiser at New York. He could only take the importations at New York and estimate the situation as against the rest of the country, figuring that New York importations would be about 60 per cent of the importations of the entire country.

Mr. PAYNE. The case was before the appraiser?

Mr. GERRY. Well, Mr. Whitehead was the local appraiser at that time and he was called upon and he got his clerk to make the computations.

Mr. PAYNE. So that the case came before him?

Mr. GERRY. Yes, sir.

Mr. PAYNE. What was the amount of importation?

Mr. GERRY. Oh, the amount of importation was something like—the duties collected were \$110,000,000.

Mr. PAYNE. In the report, I mean.

Mr. GERRY. \$110,000,000 in duties, I think it was. That is a mere guess; I could not remember now.

Mr. PAYNE. This one-tenth of 1 per cent was where the people got caught and the money was actually paid over for the additional duty, was it not?

Mr. GERRY. I would not want to put it that way, sir.

Mr. PAYNE. If that is not the fact, explain what was the fact.

Mr. GERRY. The situation is that when a man makes an entry stating the value, the invoice is separated and sent to the appraiser, who, in turn, transmits it to the examiner, who is supposed to be an expert with respect to the valuation of this merchandise, and he makes a return of value. He may approve the entered value or he

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may advance the entered value. That is his personal judgment. Now, taking the advance, figuring the amount of duty on the advance and comparing that with the total amount of duty collected, it shows a difference of one-tenth of 1 per cent.

Mr. PAYNE. That was all calculated by the appraiser and collected by the appraiser?

Mr. GERRY. It was the actual duty collected by him.

Mr. PAYNE. Then it did not cover all the advances made by the appraiser or the examiner; it only covered where the importer actually paid the additional duty?

Mr. GERRY. No; there would not be any——

Mr. PAYNE (interposing). Did it cover only the cases where the Government only got the additional duty from the importer? You understand that question?

Mr. GERRY. Manifestly; it only covered the additional increased duty collected on these advances.

Mr. PAYNE. That is the question I started out with. So that it only covered that. It did not cover any undervaluation——

The CHAIRMAN. Mr. Payne, I have three more witnesses after Mr. Gerry gets through. Is it the pleasure of the committee to finish up with these three witnesses now or to take a recess?

Mr. PAYNE. What I wanted to get was, what is in this report. Mr. Gerry does not throw much light on the undervaluation unless there is more in the report.

Mr. FORDNEY. If it is agreeable to the other members of the committee, I would like to take a recess and hear the other gentlemen after recess, because I would like to be present when they come and give their testimony, but I must go now.

The CHAIRMAN. Very well. When Mr. Gerry gets through we will take a recess until after lunch.

Mr. GERRY. Mr. Chairman, I am quite willing to cut my statement very short. I have been discussing this matter with people in the Treasury Department, and I could take up the time of the committee with many suggestions.

The CHAIRMAN. If you have the time, I should like to hear from you further on that point. If it is agreeable to you, we will take a recess for an hour and hear you after lunch.

Thereupon, at 1.30 p. m., the committee took a recess until 2.15.

AFTER RECESS.

The committee met at 2.15 o'clock p. m., pursuant to the taking of recess.

TESTIMONY OF JAMES L. GERRY—Continued.

The CHAIRMAN. You may continue, Mr. Gerry.

Mr. GERRY. Mr. Chairman, I desire to very briefly and quickly run through the customs administrative act, and to suggest certain changes.

The first thing I will call your attention to is the fact that the declarations which are made on entry are to my mind insufficient at

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this time. I have a client who goes to England, France, and Germany and buys curios, antiques, and articles of virtue. He buys them himself, takes title to them over there, and has them delivered to him there, and then he proceeds to ship them to this country, and under the law, as laid down in the customs administrative act, inasmuch as he is shipping this merchandise himself, he is compelled to invoice on what is known as the "consigned" form—the white form. The result is, when he comes to make his entry, that he is obliged to make a statement that the values disclosed in this invoice are the values at which he would be willing to sell that merchandise.

Now, manifestly, inasmuch as he has bought it, taken title to it, and is bringing it to this country for the purpose of reselling it the values disclosed in the invoice, which represent his purchase price, are not the selling values. Yet to-day there is not a single declaration which that man can make that does not carry with it an absolute misstatement. That being true, he is met immediately by the proposition that section 6 provides that no person shall knowingly make a false statement; if he does he is liable to be imprisoned at hard labor for a period of two years or to suffer a fine of \$5,000. I do not know of a single instance during the entire time that the customs administrative act has been extant where this provision has been put in force. Therefore it is absolutely useless and unnecessary, and the only purpose that I can conceive of that this provision is being used at the present time is as a club in the hands of special agents to call importers in and make them pay money rather than go through the process of litigation that would follow if they didn't pay. Therefore I think that section 6 should be eliminated for those reasons, and for the further reason that if there should be any fraudulent statement in the declaration, with the intent to secure some advantage in the passing of the goods through the customhouse, it is entirely covered by the provisions of section 9.

Mr. FORDNEY. Do you say that this feature of the law providing for a penalty of imprisonment or fine, whatever it may be, has been used by special agents in calling a man in who is accused of fraud and exacting from him money in the way of settlement of cases rather than to enter litigation?

Mr. GERRY. Mr. Fordney, after the sugar-trust proposition was brought to light I had many, many reputable merchants come to me in the city of New York and say that they had been charged with fraud. I go into the matter with them and have said to them, "There is no fraud here; there is nothing that you are responsible for in any way, shape, or form. You can take this proposition into court, and the Government will never be able to collect any money from you." "But," they would say, "Mr. Gerry, if we go into court the matter will be advertised in the newspapers, and we will be subjected to contumely and obloquy, just as if we were guilty; even if we win our case the publication of the fact of our winning the case will not be in as large type as when the original suit was started against us, and we would rather pay something to get shed of the matter without all that."

Mr. FORDNEY. Have there been any cases similar to the one you have mentioned that have been tried out in which the Government lost out?

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Mr. GERRY. You mean to say where they have collected money?

Mr. FORDNEY. No; where the merchants have refused to be held up in that manner.

Mr. GERRY. Yes, sir.

Mr. FORDNEY. Where a man was obliged to go in court to defend himself.

Mr. GERRY. Yes, sir; and I will be glad to tell you of just such a case. There was such a case at Gloversville, N. Y., regarding glove leather. A client of mine was coming from the other side, and when he got to the dock he was arrested and held in \$10,000 bail, and the case was submitted to the district attorney for the purpose of indicting him under the customs administrative act. The question in that case was that this glove leather had been bought at a dollars-and-cents price landed in Gloversville, and the contention was that they should assess duty on the price in Gloversville, less 20 per cent duty and the 3 per cent for passing the merchandise through the custom-house. That made a difference as between the market value in Berlin and Gloversville of approximately 8 per cent, which was covered by their insurance, commissions, and incidental expenses of getting this glove leather to Gloversville.

Mr. FORDNEY. You believe that, although those people paid money to settle this case, they were absolutely innocent of any intention to defraud the Government?

Mr. GERRY. Yes, sir.

Mr. FORDNEY. Have you any proof to that effect?

Mr. GERRY. Oh, yes; I have the proof.

Mr. FORDNEY. Was it presented to the court?

Mr. GERRY. Oh, yes; all their correspondence books, letter books, etc., were presented to the court.

Mr. FORDNEY. And after they were presented, what effect did it have on the fact that they had paid this money?

Mr. GERRY. Oh, the case was dismissed. I am afraid I don't make myself quite clear, Mr. Fordney. In the case where this proof was presented no money was paid; the case was dismissed; but in the cases that were submitted to the special agents in New York money was paid, in order to compromise and prevent litigation.

Mr. FORDNEY. Those are the cases I intended to ask about—whether or not you have positive proof that they were not guilty of any wrong; you are assuming they were not; but have you proof that the men in those cases were not guilty, and paid money rather than to go into court?

Mr. GERRY. I had another case on this same glove leather proposition where a gentlemen by the name of A. C. Byerline was approached by the special agents who said to him about 6 o'clock in the evening, "Now, you pay us \$3,000 by 9 o'clock to-morrow morning or we will seize your merchandise." He managed to get his \$3,000 and paid it over at 9 o'clock the following morning.

Then he came down to see me and told me what he had done, and I said, "What did you do it for?" And he said, "Why, they were going to seize my goods; they told me if I didn't pay this money they were going to seize my merchandise and put me out of business, whereas if I did pay it over they would compromise the case and I would hear no more about it." Under those circumstances the

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gentleman paid the money over. But, after thinking it over and believing that a wrong had been done him, he came to me. I went to them in behalf of my client and said, "This is not a proper way to do," and they said to me, "Mr. Gerry, you will have to make an offer of compromise or we will hand that money back to the surveyor and we will enter suit and the case will be tried." A letter was written to the Treasury Department, explaining that the money had been paid under duress, and when the whole correspondence was brought to the attention of the Secretary of the Treasury, we are in receipt of advices, the money was returned.

Mr. FORDNEY. You had no proceedings in court in order to get that money back?

Mr. GERRY. No, sir; we simply put the matter up to the Treasury Department, and they decided that my position was correct.

Mr. FORDNEY. What harm would have come to that merchant if he had given a proper bond for his goods and then gone about settling it in the due process of law? I am not a lawyer, but I assume he could have gotten possession of his goods, and that he could have gone into court and proved his innocence in the case. If I was a merchant I would not be held up in that way and made a scapegoat of. Generally, people want to settle such cases out of court when they are criminally guilty, and in the opinion of the general public a man who settles a case brought against him for smuggling or undervaluation, or for fraud in the way of avoiding payment of duties to the Government, there is something wrong.

Mr. GERRY. I think, Mr. Fordney, that your statement is quite correct, and that the general public has the same attitude of mind when the Government presents an action against a man for undervaluation or anything of that sort; the general public feels that there was something wrong there, too; and no matter whether he is acquitted, he is still subject to the imputation of having done something wrong, and the mere fact of acquittal doesn't wipe his slate clean. There are many merchants who refrain from defending suits in order to avoid the publicity.

The CHAIRMAN. One question regarding section 6. Your recommendation is that we repeal the criminal feature of section 6?

Mr. GERRY. My recommendation is that you eliminate section 6 entirely; that is the criminal part. Here is a provision for putting a man into prison for a period of two years or fining him \$5,000 for a false declaration, notwithstanding the fact that there has been no intent to defraud the revenue and no loss of revenue to the Government.

The CHAIRMAN. Would it not be better to change the language of the law and make him make an affidavit as to what he expects to sell the property at in this country?

Mr. GERRY. Oh, we can increase the number of declarations here; but I want to say to you that the more intricate you make this law the more it would redound to my personal benefit.

Mr. HILL. That section reads, the first line, "That any person who shall knowingly make any false statement," etc. The repeal of that would make it possible for a man to make any false statement he wanted to, would it not, without any danger to himself?

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Mr. GERRY. No, Mr. Hill; because the provisions of section 9, which follows, would cover any such false statements.

Mr. HILL. You think it should be a fine and not a criminal offense for knowingly making a false statement?

Mr. GERRY. If he made knowingly a false statement, with intent to defraud the Government, he would be indictable under section 9, and be subject to two years' imprisonment or a fine of \$5,000 there. In fact, I think that the inclusion of section 6, which was done by Mr. Tichnor, when he was Assistant Secretary of the Treasury, was a sort of codification of previously existing law, and that it was a misconception in putting it in there at all.

Now, regarding section 7—

Mr. HULL (interposing). Your theory is that there is really no local market value upon these curios and other articles that your client has purchased abroad. He is only required to state their market value in the foreign market in this declaration, as I understand it.

Mr. GERRY. No, Mr. Hull; I cited that instance to indicate to you that the declarations which are prescribed in the act, and one of which he must swear to, didn't fit that particular case, and that therefore it was necessary to amend the declaration in some way.

Mr. HULL. I didn't understand that he was required to set out in this declaration of the kind you describe the market price of these articles in this country, but in the country from which they are exported, and the price he would be willing to take for them over there; that is, if they were offered for sale.

Mr. GERRY. This gentleman, when he goes over there to buy his goods, states in his invoice his absolute purchase price, whatever he paid for them; at the same time he is compelled, under the law, to make a statement that that is the price at which he would be willing to sell the goods.

Mr. HULL. In that country?

Mr. GERRY. Not at all, sir; he would not want to sell them in that country.

Mr. HULL. That is the actual market value in the foreign market, and the price which he would be willing to receive if sold in the ordinary course of trade; that is the provision to which you refer?

Mr. GERRY. Quite right.

Mr. HULL. So that relates to the foreign country and not to his price in this country.

Mr. GERRY. But this declaration is made when he comes to the customhouse and makes his entry, as you will notice by the provisions of section 5 [reading]:

Whenever merchandise imported into the United States is entered by invoice, one of the following declarations, according to the nature of the case, shall be filed with the collector.

Mr. HULL. But still it relates to the foreign valuation and foreign sale.

Mr. GERRY. The situation is that when he goes over there and purchases merchandise he is certainly not going to turn around and sell it over there at that price.

In regard to section 7, I think it proper to eliminate, in connection with clerical errors, the word "manifest." I think that if anybody can

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come to the Treasury Department and establish the fact that a clerical error has been made it is proper to establish that by evidence rather than by the situations wherein it is manifest on the face of the paper. I think that change should be made in the law.

Another element of section 7 that should be amended is the proposition with regard to penal duties. For each 1 per cent of undervaluation there is an additional duty assessed. "Such additional duties shall not be construed to be penal." That was an amendment for the original section 7 of the act of June 10, 1890, in order to safeguard the Secretary of the Treasury from the importunities of people trying to get back additional duties that had been assessed. Formerly the Secretary of the Treasury had the right to remit forfeitures and penalties. Prior to the time of the legislation which made these duties merely additional and not penal you could go to the department and establish the fact that there was no fraud and the penalty would be remitted.

Now, I think I am violating no confidence of the Treasury Department in saying that there have been many cases where the Treasury Department would have been extremely gratified to remit these additional duties if they could. Many cases have arisen where the assessment of additional duties under this provision has been a great hardship, and the law ought to be amended. At the same time the Treasury Department feels that each and every importer coming in should be under a certain obligation to make an effort to have his entry and invoice as correct as possible to make it, and therefore I make the suggestion that in amending this law the authority be given to the Secretary of the Treasury to remit such penal duties to the extent of 90 per cent. I don't believe the 10 per cent will be any hardship, and I think that is sufficient penalty to insure the importer exercising the proper care in making his invoices.

Now, in regard to section 8, which requires the manufacturer to make a declaration of the cost of production, I know, of my own knowledge when in Berlin on the German treaty, that great objection was made to that feature, not because the manufacturer had any particular indisposition to furnish this statement to the Treasury Department or to the appraiser, but because it seemed to be a work of supererogation to make these statements week after week and month after month with respect to the same kind of merchandise. When there was no additional information to be gained from them it seemed useless to require them, and therefore I think that provision should be amended, so as to give to the appraiser of the merchandise, or the officer acting as appraiser, authority to call upon an importer to produce such a statement in cases when in his judgment it was necessary to have it. That would obviate the necessity of the reproduction of this statement in all cases.

In regard to section 9, I feel that undervaluation or forfeiture of merchandise should relate to the particular merchandise that was undervalued. There are times when a case may contain a large variety of goods. Without any fraud, without any intention to do wrong, a given item may be undervalued to the point of forfeiture. It does not seem right that all the rest of the goods in that case should likewise be forfeited. I don't see why one item should taint all the balance of the case.

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Mr. HILL. Mr. Gerry, if there were a dozen cases and there was fraud discovered in regard to one case, even then it would not affect the whole invoice.

Mr. GERRY. It would only affect that particular case.

Mr. HILL. The purpose of that is to prevent the hiding of goods in a case. It did once affect the whole invoice, did it not?

Mr. GERRY. Yes, sir.

Mr. HILL. And it was cut down in 1909?

Mr. GERRY. Yes, sir.

Mr. HILL. And now applies only to the single case in which the fraudulent transaction was found. You don't think it should relate to the other goods in the case?

Mr. GERRY. That is what I think; yes, sir.

Mr. HILL. That it should relate only to the goods about which a fraudulent entry was made?

Mr. GERRY. Yes, sir.

Mr. HILL. What was it put there for if it was fraudulent; what was it concealed in that case for?

Mr. GERRY. I think that would be a very difficult question to answer. You are assuming the fact that it was fraudulent. It may have been put there with fraudulent intent and it may not. I think the particular case might vary in each instance.

Mr. HILL. Your amendment would make fraud just as easy as possible.

Mr. GERRY. No, Mr. Hill; I would not make fraud just as easy as possible; but I want to show you, sir, where this law gives to the Government a tremendous power.

Mr. HILL. All Governments have to have that in order to prevent fraud.

Mr. GERRY. This recommendation is one that was approved of by the merchants' association.

Mr. FORDNEY. I would like to ask, Mr. Gerry—and I don't mean this with any discredit to you at all—does the Treasury Department recommend the change that you suggest?

Mr. GERRY. I only referred to the Treasury Department and quoted them with regard to the 90 per cent proposition alone.

Mr. FORDNEY. On the other hand, and this is the point I want to make, if the changes you suggest are put into the law and a fraud is committed, it will be much easier for the man committing that fraud than it is under the existing law.

Mr. GERRY. In regard to section 6, no——

Mr. FORDNEY. I mean the whole thing; that is, you would diminish the penalty and fine.

Mr. GERRY. I have no desire at all to ameliorate the penalty or limit the punishment for the man who is trying to commit fraud.

Mr. FORDNEY. I am not referring to you at all; but really if those changes were made in the law that you recommend it seems to me that it would make it easier for a man to commit fraud.

Mr. GERRY. I can not agree with you, Mr. Fordney. The commission of the fraud would have to be established, and that is thoroughly covered by the various provisions of the statutes. If you will go over the Revised Statutes, you will find these provisions there with regard to the punishment of fraud entirely outside of the customs

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administrative act. So far as that language is concerned you could eliminate the customs administrative act entirely. You have 5440 with regard to conspiracy; you have 3082, 3067, and dozens of other provisions in the Revised Statutes that were put there for the purpose of punishing fraud, long before the customs administrative act was ever conceived.

Mr. FORDNEY. Mr. Gerry, I will give you an illustration we had here the other day. A gentleman was talking on the subject of linoleum, and he showed what advantage had been taken of the Government. This linoleum is imported—I will be very brief, but I think this case will illustrate the point—it is made in yard widths.

Under the Dingley law there was a rate of duty on linoleum 3, 6, and 9 feet wide, and there was another rate of duty on linoleum 12 feet, or wider. Now in this case the importer took advantage of the law without doubt, though the Supreme Court held there was no fraud committed. This importer ordered some linoleum, made in Japan, which was 11 feet 11½ inches in width—just a quarter or a half inch under 12 feet, and he brought that in under the 3, 6, or 9-foot rate, which was considerably lower than he should have paid, because this linoleum was sold for 12-foot linoleum. When it came in and was held up the importer appealed from the decision of the collector of customs and the case went to the Supreme Court. The court held that the law said linoleum under 12 feet wide, and that when it was a quarter of an inch less than 12 feet it was under 12 feet, and therefore must be entered at the lower rate.

Mr. GERRY. There have been several cases along that line. In the case of Schoveling, Daily & Gales, they brought in gun blocks at New York and the barrels at another port, as the duty on parts of guns was less than on completed guns. That case went to the Supreme Court, and the court held that there was no fraud, and that they had a perfect right to do just what they did do.

Mr. FORDNEY. But that was fraud.

Mr. GERRY. No, sir.

Mr. FORDNEY. I mean in the linoleum case.

Mr. GERRY. I beg your pardon, but I think it is a proposition where Congress, in the enactment of this tariff legislation, made a mistake in putting it that way.

Mr. FORDNEY. Linoleum never had been made between those widths—3, 6, 9, and 12 feet, and in order to commit a fraud upon the Government or to evade the law and deprive the Government of the tax on that linoleum they had it made a fraction of an inch under 12 feet wide in order to get the benefit of the 3, 6, and 9 foot rate, and it was sold in this country as 12-foot linoleum. To me that is absolutely clear, open, and above-board fraud.

Mr. GERRY. There was no misrepresentation; no advantage taken of the Government. You yourselves made the law and the importer comes forward with linoleum measuring less than 12 feet in width. The same thing came up in the case of *Merritt v. Walsh* on the question of the Dutch standard. The tariff act had been made to provide for assessment of duty on the basis of the Dutch standard, which was the color of sugar. That brought in sugar according to color. The case went to the Supreme Court and they held it was assessable on the basis of color and that there was no fraud involved.

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Mr. FORDNEY. Mr. Gerry, if I were on a jury and you were presenting that sort of proposition, you might argue until you were white in the face before you could convince me.

Mr. GERRY. Then, I will have to say that if I had any information along that line I would see that you were challenged before we got to the argument.

The CHAIRMAN. In other words, the result of Mr. Fordney's statement about the linoleum simply goes to show that the question of levying a specific duty that is graduated brings about all these difficulties, where an ad valorem rate would not.

Mr. GERRY. Quite correct, Mr. Chairman.

Mr. FORDNEY. You wrote the German trade agreement presented by Theodore Roosevelt and put into law, did you not, Mr. Gerry? Am I correct?

Mr. GERRY. Yes, sir.

Mr. FORDNEY. I have heard a good deal of complaint about that law. On that agreement a great many others were written, some twenty-odd, when the Payne tariff law was enacted.

Mr. PAYNE. If I understand Mr. Gerry's argument he thinks it imposes too high a duty.

Mr. GERRY. I have no objection to the rate of duty, Mr. Payne.

Mr. PAYNE. The whole trend of your remarks seems to be that there is no undervaluation that amounts to anything. He seems to have a new argument against an ad valorem duty.

Mr. GERRY. With regard to section 11, inasmuch as Mr. Fordney has touched upon the proposition.

Mr. HILL (interposing). Referring to the question of the chairman, with regard to the evil of a graduated duty, you referred to graduated by value? For instance, you would not apply the same criticism to a specific duty graduated by the number of threads, or by weight of the product? Your criticism is the evil of specific duties based on values, is it not?

The CHAIRMAN. The question I asked, Mr. Hill, referred only to a specific duty based on width, the varying width mentioned in the linoleum case.

Mr. GERRY. You will have difficulties connected with that; for instance, I took a case to the Court of Appeals regarding the length of gloves; under the act that is a question of length. In the act there was a provision for so much tax on gloves less than 14; so much for gloves between 14 and 17, and so much for all over 17; and then the act went on to provide that measurements were to be taken with the gloves stretched to their fullest extent. You can not get a glove where there will not be some variation; they are measured by the buttons instead of the actual length, any way. But they held that every glove that was $14\frac{1}{8}$ or $13\frac{7}{8}$ was a 14-inch glove, and as a matter of fact if we took the glove and stretched it to its fullest extent, there is not a man, woman, or child in the world who could measure that glove and call it a 14-inch glove, without variation.

Mr. HULL. Then your idea would be wholly in favor of ad valorem rates as against specific rates?

Mr. GERRY. I said that I thought any sliding-scale specific rate would be subject to great difficulty.

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Mr. FORDNEY. If your argument in the linoleum case would hold good, why is it that linoleum a fraction of an inch under 12 feet would not be considered 12-foot linoleum if a glove a fraction of an inch under 14 was considered a 14-inch glove?

Mr. GERRY. I don't know the linoleum case, Mr. Fordney; I don't know what the testimony was with regard to number and commercial designation and all that sort of thing.

With regard to a provision of section 11, I think it is entirely possible to eliminate the proposition of ascertaining the market value on the basis of the home selling price in this country. It may be a matter of knowledge to this committee that that proposition was tried in the early days, back in 1842, and was abandoned, and I think any investigation will show that it is a tremendous difficulty to ascertain market value on the basis of price here. Yesterday a gentleman made a statement here to the effect that he recommended the ascertaining of market value on the assessment of duty or basis of contract price. To my mind that is absolutely unworkable as would be the home market value. There was a case of an importer in this country who bought the entire output of a china factory at Maestricht. That factory was engaged in the manufacture of a cup and saucer. His contract price was 19 cents, though you could not buy a similar cup here for less than 26 cents, and in England you would have to pay 32 cents. Illustrations of that kind can be given indefinitely, and the result would be that there would be no loss of market value. Every man who could afford to make a long-time contract would have an advantage.

The CHAIRMAN. Do you think, Mr. Gerry—of course, I don't know what your views are and that is why I am asking you this leading question—but do you think, taking the law as it stands now, that the act of 1890 was operated more successfully and better for the Government and all concerned than the law as it stands at the present time?

Mr. GERRY. Under the customs administrative act?

The CHAIRMAN. I don't mean the whole law, but this section you are talking about?

Mr. GERRY. Yes, sir; I do.

The CHAIRMAN. You think it would be of advantage to us to return to that old law of 1890?

Mr. GERRY. Well, I think it would be very much better to return to the law of 1890 than to continue with the present law. There are a great many difficulties about ascertaining the market value; but if we don't return to the law of 1890 there is one suggestion and that is where merchandise is bought in wholesale quantities and is offered freely for sale in the markets of the world, although as a matter of fact none of it is entered for consumption in the country, I think that should be considered the wholesale price upon which you assess duty. That would be a return to the German treaty in so far.

Mr. FORDNEY. You cite that difficulty in fixing the correct value upon an article where there is a graduating specific tax and that an ad valorem would be more preferable and easier to determine, etc., if I understand you correctly?

Mr. GERRY. Broadly, that is true, Mr. Fordney.

Mr. FORDNEY. Now, for instance, take hosiery. Under existing law hosiery valued at less than \$1 per dozen pairs pays a duty of

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50 cents a dozen and 15 per cent ad valorem, and if they are worth more than a dollar per dozen pairs, it pays another rate, and so on. Isn't it just as easy to determine the value of that hosiery whether it bears a specific or ad valorem duty?

Mr. GERRY. The situation is that with a graduated scale you put the burden upon the appraiser to ascertain the market value anyway.

Mr. FORDNEY. We know there have been cases where ad valorem duty was collected where the value of the goods was not given, and then the burden was put on the appraiser to determine the value. There was a gentleman in here representing Sears, Roebuck & Co., of Chicago, and I see through some of the papers that I am severely criticized because I asked him some questions. The gentleman stated that his firm were at this time making contracts for the year's supply of goods. Take hosiery, for instance, because they were buying hosiery abroad and at the beginning of the year, or at the proper season; his firm, Sears, Roebuck & Co., advanced money to the concerns in Germany making the hosiery to enable them to buy their supplies of raw material. The hosiery was delivered to Sears, Roebuck & Co. along through the year, and while they made a contract on the 1st day of January at one price, we will say, for instance, 99 cents per dozen—anything just so it is under \$1—and during the year the price of that hosiery, and the general price, advanced or receded. If the price went down and they were invoiced to them at 99 cents a dozen, they would have to pay duty at the rate of 99 cents, even though the value had gone down to 90 cents a dozen, and therefore it was not fair. Although their contract price was 99 cents, and they were paying that, they didn't want to pay duty at that rate because the average price of hosiery had gone down during the year. Therefore, they wanted the Government to insure them against loss when they made a contract abroad; but if the price went up, why, the Government charged additional duty on their invoiced price. If the price went up to \$1.05 and the appraiser determined the value of that hosiery was \$1.05, instead of 99 cents, they had to pay additional duty, and he didn't believe that was fair and just and equitable, and was asking for some relief through congressional legislation. Now, that situation would fit your case exactly, would it not?

Mr. GERRY. As a matter of fact, I don't think the gentleman stated his case correctly.

Mr. FORDNEY. You mean that gentleman didn't?

Mr. GERRY. Yes, sir; because the fact is, under existing law, if he made a contract for the purchase of hosiery and the price went down, when it came in he would be able to state his purchase price.

Mr. FORDNEY. Well, he said, Mr. Gerry, that if the price did go down those goods were assessed according to the marked value on the invoice, and he had appealed to the people with whom he had made the contract to try and fix a different value on those goods, because the price had gone down. They refused and invoiced the goods according to the price in the contract, and on that he had to pay duty, which was unjust.

Mr. GERRY. There was no injustice at all under the law. He was compelled to invoice his merchandise at the contract price, and when he came to the customhouse he had the right to deduct to make the

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market value. If the price had gone down, the duty would have been assessed at that price.

Mr. FORDNEY. A man can go over there and make a contract price for 99 cents per dozen, and if the price goes down, the average market price, and he still pays 99 cents a dozen for the hosiery, he doesn't have to pay duty at the 99 cent rate?

Mr. GERRY. He does not.

The CHAIRMAN. Whether it goes up or down?

Mr. GERRY. He has the right to add or deduct.

The CHAIRMAN. He pays the duty on the market price?

Mr. FORDNEY. I didn't understand that he had that privilege.

The CHAIRMAN. Yes; Mr. Gerry states the law correctly.

Mr. JAMES. What he wanted was to pay the duty according to the purchase price.

Mr. GERRY. That is the situation.

Mr. JAMES. Now, if it goes up, Mr. Gerry says, the importer has to pay the additional duty, and if it goes down he gets the benefit of the lower charge.

Mr. HILL. I understand that you recommend the latter part of section 11 be stricken out?

Mr. GERRY. Yes, sir.

Mr. HILL. How are you going to determine the foreign market value?

Mr. GERRY. In the first place, they have under the law an opportunity to ascertain the cost of production; section 8 provides for that. A man manufactures his goods and in his statement of cost he has to show the cost of his raw material, the cost of his overhead charges—and that shall not be less than 10 per cent—and he has to add 8 per cent in the way of profit, and when the merchandise is appraised the appraiser takes his cost of production and will add not less than 10 and 8. If there is reason to believe that he is subject to greater overhead charges than 10 per cent, the appraiser will add it. In addition to this statement of cost of production, these goods are sold in the foreign market, and you can prove just what the foreign market value is.

Mr. HILL. As a matter of fact, is not this situation you have referred to the case only with articles actually purchased abroad, where there is a market value, and where comparisons can be made? That is the first part of section 11; now, you come to the second part, which is the "consigned" case, goods manufactured for a particular market and not sold in any other market, and the same process is reversed in the market where they are sold, that is, the domestic market. Why is one any more unjust than the other?

Mr. GERRY. For this reason, and it operates with particular force with novelty goods. I represent a number of silk importers. Two pieces of silk goods are manufactured of a given pattern, with a given number of threads, absolutely the same amount of labor cost is put into the two pieces of goods. One of them comes over here and it is not available; it doesn't go; it is not satisfactory in pattern and is not sold. The other piece is taken up and is a popular pattern. One will sell—to use the figures—say one will sell for \$2 a yard and the other is not worth 50 cents a yard. How are you to establish the home market value of that silk?

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Mr. HILL. The latter part of section 11 relates to a distinctive article which has no foreign market value.

Mr. GERRY. Mr. Hill, when you go into that market to buy, you will find that whereas there has been no market value within the meaning of section 18, that is to say the goods are sold on the home market for consumption there, you will find that the goods are sold in wholesale quantities to all purchasers, not necessarily for exportation to the United States, but to other countries outside of the country of production.

Mr. FORDNEY. I have in mind a case that was presented to this committee four years ago, where it was very hard to determine the foreign market value. It was found that there was a tea set being sold in this country of a pattern made only for the American market; it was sold in no other market in the world; these goods could not be sold anywhere else than in the United States because that style was not used. On that class of goods it would be very hard to determine its foreign value, would it not?

Mr. GERRY. Not necessarily. I cited a case just a few minutes ago where an importer purchased the entire supply of a factory at Maestricht, but similar goods were manufactured there and proof was introduced to establish the value of these same goods, and I think it was pretty satisfactorily established.

The CHAIRMAN. I am much interested in what you have to say, Mr. Gerry; but we have some other witnesses and will have to hurry the hearing along.

Mr. GERRY. Just one suggestion further that I wish to make, Mr. Chairman, and that is this: I represent a number of domestic manufacturers and a number of importers, and I feel that the amendment of the customs administrative act is a question that should be gone into with a great deal of deliberation and care. I would also say that it does not appear to me that it is absolutely necessary that the amendment of the customs administrative act should be taken up with the tariff.

If it be necessary to amend this customs administrative act at this time, though I can not see that there is any imperative necessity of doing it immediately, I would like to have the opportunity of presenting the matter further with some of the members of your committee, and with some representative of the Treasury Department, and some one to represent the collector of the port of New York, together with some representative of the Merchants' Association, so we could discuss the matter thoroughly and come to some conclusion with regard to the amendment of each one of these items and present it to the committee.

Mr. FORDNEY. While you were with the Government, Mr. Gerry, did it ever occur to you that it would be well to recommend these changes you have suggested?

Mr. GERRY. I was with the Government when the German treaty was negotiated.

The CHAIRMAN. Would your Merchants' Association be willing to send a representative here for that purpose?

Mr. GERRY. Yes, sir; I am a member of the Merchants' Association, and I will say right now that we will be glad to send a representative here for that purpose.

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The CHAIRMAN. All right, Mr. Gerry; we will consider that matter. Mr. GERRY. Thank you, sir.

STATEMENT OF JAMES L. GERRY, WASHINGTON, D. C.

WASHINGTON, D. C., February 7, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, House of Representatives.

DEAR SIR: In reference to the question of your committee taking up for consideration the amendment of the customs administrative act, I desire to say that the suggestion contained in my remarks to the committee on Saturday last to the effect that there was no present need for haste in connection with the amendment of this act has apparently met with favor on all sides.

There is a far more important question to be considered in connection with the customs administrative act, and that is, that the act should be separated absolutely from the tariff act, and whether the amendment take place at this time or some future time the customs administrative act should be separated absolutely and wholly from the tariff act. My reason for urging you to adopt this suggestion is that if at the expiration of one, two, three, five, or ten months, it should be discovered either by the Treasury Department or any of its officers, by manufacturers, or by the importers that any given provision of the act was improperly drawn it would be extremely difficult to secure a correction of such provision, because the customs administrative provisions were included in the tariff act, and there would be an indisposition to open up this act to legislation for any purpose whatsoever.

I think it would be eminently proper and feasible to have a committee of say five to draw up a customs administrative act, publish it, and have hearings on that particular act, thereby giving everybody an opportunity to be heard in regard to it.

Very truly, yours,

JAMES L. GERRY.

BRIEF SUBMITTED BY GEORGE BORGFELDT & CO., NEW YORK, N. Y.

JANUARY 27, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: As large importers of merchandise under various schedules, we respectfully submit the following suggestions for your consideration in connection with the hearing on the customs administrative act.

Section 7 (1). This section providing for the marking and stamping of all articles of foreign manufacture capable of being marked should be eliminated entirely. Our reasons, specifically, are that the question of whether or not an article of foreign manufacture is capable of being marked is left entirely to the discretion of the examining officer at the port of entry. Necessarily when there are hundreds of such officers there is a great variance and there is not and can not be any uniformity of action. Also, merchandise sold from stock abroad and which is not stamped at time of manufacture can not be stamped subsequently in many instances, so that goods for the American market often have to be specially manufactured, thus causing embarrassing delay and hampering business.

It should be permissible, however, for manufacturers to tag or label their goods if they desire, as for instance the labeling of a Worth or Paquin gown, etc., but it should not be mandatory.

The paragraph should be entirely eliminated or at any rate modified—even a reenactment of the law of 1897, providing for the stamping of those articles such as are usually or ordinarily marked, stamped, etc., would be preferable to the present provisions of the law.

(2) Under any circumstances the law should prohibit the stamping or marking of incomplete articles or parts of articles, such as knife blades, dials of clocks, etc.

Our reasons for this specific suggestion are that an importer could bring in knife blades stamped "Sheffield," and one of these blades so stamped could be used in connection with other knife blades of American manufacture, assembled and completed into a knife here and then sold on the market as an English-made knife, exhibiting the "Sheffield" blade as proof of its being an imported knife and of Sheffield steel. Also clock dials stamped "France" could be used on American-made clocks

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and placed on the market as French clocks. Other illustrations could be suggested of what has actually been done. There should be a heavy penalty for falsely marking goods. If goods are marked at all, they must be truthfully marked.

Section 28 (subsection 7). This section should be amended so as to allow the Secretary of the Treasury to remit the additional 1 per cent duty imposed for every 1 per cent of advance in valuation in such cases of technical but not fraudulent undervaluation when the bona fides of the invoice are certified to by the Board of United States General Appraisers. The additional duties demanded are unjust, unequitable, and out of all proportion to the amount of duty involved, and are of a penal effect, although the act declares that they are not to be considered as such, and work an unnecessary hardship. We give a concrete example of how the provision works out in actual practice. Said section provides that if the appraised value of any article of imported merchandise subject to an ad valorem duty shall exceed the value declared in entry there shall be paid in addition to the duty imposed by law an additional duty of 1 per centum of the total appraised value thereof for each 1 per centum that such appraised value exceeds the value declared in the entry. Therefore, an invoice of decorated china, valued \$100, entered at 60 per cent duty, would pay a duty of \$60. This invoice we assume has been advanced by the appraiser to \$110 in value, or \$10 above the entered value. The duty on the appraised value of \$110 is \$66. The advance is 10 per cent, making additional duty of \$11 (10 per cent of \$110), or a total duty of \$77 over the duty as entered of \$60.

Entered value \$100 at 60 per cent.....	\$60
Appraised value \$110 at 60 per cent.....	66
Additional duty of 1 per cent of total appraised value for each 1 per cent advance (10 per cent of \$110).....	11
Total.....	77

You will note that while the actual difference in duty of entered value and that of appraised value is only \$6, yet the amount paid by the importer is \$11 over and above this, or 183 per cent more than what the actual advance duty amounts to. It should be borne in mind that in questions of valuations, which is necessarily only a matter of more or less close approximation at best, the importer has no appeal from the decision of the Board of Appraisers as at present constituted.

While it is necessary and of advantage to all concerned that a check be kept upon the fraudulent undervaluer, we do not believe that the years of experience, training, and expert knowledge of a reputable buyer should be nullified and the fact of his ability and knowledge enabling him to buy at favorable market prices be penalized, so that if it can be clearly proven that while he bought cheaper than some competitors, yet his purchases were actually made at the prices set forth and the bona fides of his act is not in question, then this additional duty which as illustrated, acts as a penalty, should not be assessed and upon proper certification the Secretary of the Treasury should be empowered to remit the amount, the importer of course to pay duty on the increased valuation, but not to be subject to the additional duty of 1 per cent of the total appraised value for each one per cent of the estimated dutiable value.

Provision should also be made for permitting importers to add to make market value "under duress" just as they can now pay duty on classifications "under protest" so that provision is made for refunding importers the additional duties paid if the decision of the Board of Appraisers subsequently is in their favor. It is very often the case that examiners of merchandise advance the value of given lines of goods without justifying evidence, sometimes on the order of the Treasury Department, in order to make a test case or at the suggestion of the protected interests. Under the present law the importer is then forced to add on entry to make these figures on subsequent importations with the result in that case that he loses the duty paid on the incorrect advances, even if he wins, and the duty plus heavy penalties (if he should have failed to add to make the market value claimed by the customhouse), if he loses. Importers are forced to engage counsel and if they fail to appeal from such decision they have no remedy for recovery even when, as already stated, a subsequent case covering the same merchandise is decided in their favor. We advocate therefore as stated that the importer be allowed to add to make market value "under duress" but amounts so collected by the Government "under protest" should be refunded when the question at issue is decided, upon claim properly made out, on the collector following the usual procedure in such cases.

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Section 28 (subsection 13). This section should be amended limiting the appeals to reappraisement to a board of three general appraisers. There is absolutely no object in having a case on value heard by a single general appraiser as actually in almost every instance either the Government or the importers appeal to the board of three. Knowing this to be a fact neither side puts in its full evidence before a single general appraiser, reserving such for the final board of three. We also submit that that part of said section 13, providing that the decision of the board of three general appraisers in reappraisement proceedings "is final and shall not be subject to review in any manner for any cause in any court" is arbitrary and unjust in its effect as it distinctly eliminates any appeal even in case of an error. While it is not desired to create a condition at which appeals can be taken in general, from decisions in matters of value, it is nevertheless submitted that this paragraph should be made less sweeping and that there be provided a review of certain cases under certain conditions.

Subsection 14. This section should be amended prohibiting the collector of customs from reopening an entry and reclassifying merchandise once passed, delivered and gone into consumption, except in case of fraud or manifest clerical error.

Subsection 18. This section should be amended so that the question of determining market value can be more equitably settled when goods are made for this market specially but are not sold in the home market. Where similar goods are sold in the home market the present practice is a simple matter, but where goods are specially made for foreign markets, but find no home market, the prices at which these goods are sold to other foreign markets should control in establishing the dutiable value.

The said section also provides that in arriving at dutiable market value the value of the case, cask, etc., shall be included. This results in a lack of uniformity of the duty assessed on cases and casks; for instance, a large packing case valued at, say, \$1.50, filled with decorated China, upon entry will pay duty at 60 per cent or 90 per cent on the case. If filled with enameled ware, the rate is 40 per cent, and the duty would be 60 per cent on this same case. If filled with goods paying rate of 20 per cent, the duty would be 30 cents, and if filled with goods that come in free the case would be free also. It is recommended that all cases, casks, etc., be assessed ad valorem, as is done under the Canadian customs laws, regardless of their contents, at 20 per cent.

We further most respectfully suggest for your committee's consideration the enactment of a provision on a par with that in force in Cuba, whereby a merchant may, as a matter of right, have the appraiser of the port advise him in advance, upon submission of a sample, what rate of duty such merchandise will pay upon entry. Having made this decision the appraiser to be bound by his advisory classification, so far as imports based on it are made at that port of entry. It happens too frequently that sample merchandise on importation is classified at a given rate and that the merchant when marking prices for sale of goods based on the landed value of the samples finds that when the stock shipments arrive several months after that an entirely different classification is applied, sometimes 10 per cent to 30 per cent higher. When goods are sold at a close margin contracts sometimes have to be filled at actual loss, and it may take two or three years before a refund of duty, paid under protest, is recovered even if the Board of General Appraisers or the Customs Court do support the original classification made on the sample shipment.

It is further submitted that ad valorem rates alone or specific rates alone should apply on any given merchandise, but never compound rates. There are certain cases where the class of merchandise is of a nature which invokes specific rates of duty, for instance, when duty can be assessed by weight, or per gallon, etc. Compound rates, however, should be avoided throughout the tariff because great confusion and uncertainty in regard to the actual rate of duty to be figured arises from them, and because frequently the actual ad valorem duty resulting has been far in excess of the duty it apparently had been intended to assess. The ad valorem rate should be made high enough, where compound rates now apply, to equalize any additional specific duties which may have been provided for if it is really considered desirable to impose as high ad valorem duties as will sometimes appear to have been imposed if the suggested conversion is made. This would leave no doubt as to the actual rate of duty imposed. Refer as illustrations to the cutlery paragraphs, where all varieties of knives are dutiable at ascending specific rates from 1 cent to 20 cents each plus 40 per cent ad valorem. Also to paragraph 448, involving very complex compound rates which actually figure out 85 per cent duty, and to paragraphs of the Cotton Schedule, etc., etc.

Respectfully,

GEO. BORGFELDT & Co.,
CURT G. PFEIFFER, *Vice President.*

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DAMAGE ALLOWANCE.

Owing to shifting of cargo in holds of ships during stress of weather merchandise, especially fragile articles such as china, earthenware, etc., are frequently damaged or destroyed. The damage may amount to only 10 per cent of the crate or case. Under the law at present the importer has no redress from duty paid unless he abandons to the Government an amount equal to 10 per cent in value of the total invoice or one-tenth of the quantity. Duty necessarily is paid on the merchandise before unloading or inspection is possible. It is not always practicable to comply with the regulations in abandoning to the Government such merchandise. A damage-allowance law should be enacted whereby an inspection may be made on the docks by a Government officer of the damaged merchandise, and the amount of damage recorded at the customhouse, so that a rebate of duty paid may be had upon liquidation of the entry.

GEO. BORGFELDT & Co.,
CURT G. PFEIFFER,
Vice President.

CONCERNING SECTION 28, CUSTOMS ADMINISTRATION.

Hon. O. W. UNDERWOOD,
Chairman Committee on Ways and Means.

[NOTE.—This brief is presented by E. H. Van Ingen & Co., woolen merchants of New York, and has been prepared by Mr. E. H. Van Ingen, who, for 50 years, has had close knowledge of the tariff laws at the port of New York.

But our experience has been limited to the importation of woolen goods. Therefore, while our general remarks will apply to all schedules, we especially refer herein to the working of the act as applied to "Schedule K—wool and woolsens."]

We make the general criticism that the present administrative act is confused, antiquated, theoretical, and unworkable. It purports to establish a system, to provide methods, and to supply machinery to "simplify the collection of the revenues."

The system could not, by any ingenuity, have been made more complicated. The methods utterly disregard justice, even elementary fairness, to importers. Under the administration of Mr. Secretary MacVeagh, through his assistants, Mr. Assistant Secretary Curtis, Mr. Appraiser Bird, Mr. Collector Loeb, and the law officers connected with the New York Customhouse, arbitrary rulings and grossly unjust exactions have been more annoying and irritating than in the whole of the 40 years of previous administrations. Decisions of the Board of General Appraisers have been treated by those officials with contempt, and the most pettifogging ingenuity has been employed in attempts to nullify the law and override those decisions. Treating every importer as though he were dishonest, they have, in the most barefaced manner, subordinated every idea of equity to legal technicalities.

Full proof of all these charges is embodied herein.

THE ADMINISTRATIVE ACT SHOULD BE SO RADICALLY CHANGED AS TO MAKE SUCH PETTY TYRANNIES IMPOSSIBLE.

The act provides that, before the shipment of the merchandise from a foreign port, every invoice shall be produced to a "Consul of the United States" and shall have indorsed thereon a declaration, signed by the purchaser (or some other of the various persons mentioned), that the invoice is a true and full statement of the actual wholesale market value of the goods—

"that it contains * * * a true and full statement of the time when, the place where, the person from whom the same were purchased, and the actual cost thereof, and of all charges thereon, as provided by this act."

This extract assumes that the conditions of purchasing goods in Europe are the same as existed 50 years ago—but they are not. The theory of the act is that merchants buying goods abroad go to a manufacturer, select from goods all ready for delivery, and that, when thus purchased, the goods are thereupon packed and shipped to the United States. As a matter of fact, the authors of this archaic act could not have been aware that manufacturers of woolsens carry no merchandise in stock, and make goods only upon orders which they have obtained by showing small samples. The same is true of the manufacturers of nearly all textile fabrics. The delivery of such orders will be made after, say, two to eight months from the dates when the orders were given—and the goods will be delivered from time to time, not in one parcel. They are received

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by the importer, a few pieces at a time, to be packed and shipped as the deliveries and his convenience dictate. In a case of 10 different pieces, the merchandise may have been bought at 10 different times, in 10 different places, and from 10 different persons. How can an importer comply with the conditions as laid down in the act? If, after a great deal of trouble and labor, and therefore, of expense, "the time when, the place where, the person from whom" law were literally complied with, the appraisers and examiners could never confirm such statements, and, as a matter of fact, would pay no attention to them whatever.

That is one of the "unworkable" features of the law.

The importer, or his agent, must take three invoices to the consul and swear to whatever is printed in the declaration. The consul, who is an officer of the State Department and has nothing to do with customs matters, affixes under the consular seal of the United States a certificate reading as follows:

CONSULAR CERTIFICATE. FORM 140.

"I do hereby certify that the invoice described in the endorsement thereof was this day produced to me by the signer of the annexed declaration. I do further certify that I am satisfied that the person making the declaration thereto annexed is the person he represents himself to be, and that the prices given in the invoice agree with the actual market value or wholesale price of the merchandise described in the said invoice in the principal markets of the country at the time of exportation, excepting as noted by me upon said invoice, or respecting which I shall make special communication to the proper authorities.

I further certify that a fee of \$2.50 United States gold, equal to has been paid by affixing stamps to the duplicate copy of this document.

Witness my hand and seal of office the day and year aforesaid.

American Deputy Consul General.

(This is the form used at the London consulate.)

Every such certificate is an official lie, because the consul in London, Liverpool, or any other important shipping point, knows nothing whatever about the actual market value or wholesale price of any merchandise. This is another proof of the antiquated and theoretical character of the administrative act. It is supposed, judging from the language, that the consul general at London, England, for example, will go, or send, into the market and ascertain all about market values and wholesale prices. In fact, if the consul general in London were to conform in letter and spirit to the certificate for which the importer is forced to pay \$2.50, the said consul general would need to employ at least 250 skilled experts, no one of whom could be obtained for less than \$3,500, and from that up to \$10,000 per annum. Even with such an extensive and expensive corps of experts it would require from one to four weeks to obtain the necessary information, shipments in the meantime being at a standstill.

No doubt, in the time of Thomas Jefferson, when the consul was only called on once or twice a week to certify to an invoice of goods which would be shipped, perhaps a month later, on a sailing ship, he could go quietly out and ascertain about market values, at the same time being personally acquainted with everybody who shipped goods to America. This absurd law assumes that the times have not changed.

[NOTE.—The wording of the consular certificate above referred to does not seem to appear in the printed copies of the administrative act.]

Unless the importer buys the above-described official lie, the collector of the port of New York, or of any other port, will refuse to allow entry of the goods to be made. But is it supposed that the said collector pays any attention to the solemn oath of the shipper and to the certificate of the official representative of the United States? Not so. He knows perfectly well that the certificate, both as to identification of the party who has taken the oath and as to the market value of the merchandise, is absolutely worthless. Yet he will allow no goods to pass through the customhouse without it.

If this is not official extortion or blackmail on the part of the United States of America, what is it? "Unless you pay \$2.50 for a certificate which has no value, you can not import any goods into the country," is what the law practically says.

[NOTE.—The entire duty of the consuls (officials of the Department of State, and receiving no instructions from the Treasury Department) in connection with the customs should be limited to the taking in a notarial capacity, of the shipper's oath charging only a moderate fee, say 50 cents. The consul could serve upon every person taking said oath a printed and numbered warning as to the risks of taking a false oath

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and require an acknowledgment from said person that he had received it. That would give the Government quite as much security as the present system, and relieve United States consuls and collectors of the ports from being compulsorily made consenting parties to the Government's extortion.]

Entry must be made upon all foreign merchandise at the customhouse of the port of arrival. To the entry must be attached an oath which declares that the invoice is correct, and goes on to say—

"the invoice now produced by me exhibits the actual cost at the time of exportation in the principal markets of the country whence exported * * * and includes and specifies the value of all * * * cases * * * and all other costs, charges, and expenses incident to placing said goods, wares, and merchandise in condition packed ready for shipment to the United States * * *."

The importer can not get his merchandise unless he signs this oath. No one connected with the customhouse knows anything about the alleged "costs, charges, and expenses," or whether there have been any—and, if there were any, how could they be specified upon an invoice? The "unworkable" character of this part of the law will be clearly shown by the following details:

When Mr. Appraiser Bird assumed office, he informed us that he intended to advance our invoices 2 cents per yard to cover paper, twine, and other "costs, charges, and expenses," unless we ourselves voluntarily added it. As all manufacturers will deliver goods wrapped, tied, and packed, we refused to be "constrained" to make a "voluntary" addition. Therefore our invoices were advanced, and the 2 cents per yard was increased to 4 cents, the additional 2 cents being the penalty. Referred by us to the decision of the United States Court of Customs Appeals (T. D. 31007), October 18, 1910, the Stein case, as covering and settling the matter, the appraiser said, "I don't approve of that decision," and the spirit indicated by that remark has apparently actuated the customhouse officials during the past two or three years. If any decision of any court failed to support an illegal or extortionate demand, they have simply refused to recognize the decision, as will appear in the following pages.

The advances upon our invoices were made. We protested and demanded a reappraisement. But we had to pay the advances and penalties before we were allowed to protest. The "effect" of this disgraceful system is that a person is charged with a crime, is presumed to be guilty of fraud, and is compelled to pay the penalty before he is allowed any standing before the trial tribunal or permitted to defend himself.

Upon the first day of our trial, before one general appraiser, the Government presented no evidence to sustain its contention. Our Mr. E. H. Van Ingen went upon the stand and the following paper, entitled "Statement of the Case—Details of Expenses, etc.," was offered as his evidence. The same was corroborated by a number of experienced witnesses.

Upon the second day of trial, Mr. Van Ingen gave further testimony as to "costs, charges, and expenses." On this second day, the Government had many witnesses, who, in every instance, upon cross-examination, sustained all of our contentions.

The evidence of Mr. Van Ingen above mentioned follows:

STATEMENT OF THE CASE.

For the first time in our business career (beginning in 1862) our invoices have been advanced by the present appraiser of the port of New York, and we are exposed to the obloquy of having undervalued out goods, which we indignantly deny.

Mr. Appraiser Bird is of the opinion that certain expenses, rendered necessary in examining out goods before shipment, are dutiable.

We make the broad claim that nothing which we do to, or with, our goods, after receiving them from the manufacturers, adds a fraction to the "wholesale market value" of said goods. In fact, we could not know their market value until we had examined them most thoroughly as to color, widths, weights, and finish. Ought we to venture to ship goods to New York, pay from 80 to 125 per cent duty upon them, and risk finding them imperfect, or in any way unfitted for our market here? Manufacturers will deliver goods "packed for shipment to the United States." We must unpack, examine minutely, and repack before shipment. Can it be fairly, or reasonably, claimed that we have added to the market value?

For 30 years it has been the invariable practice, in the appraiser's department, to pass English goods in accordance with our claim as presented in paragraph 3, and there has been no change in any facts or conditions during that period.

The appraiser's contention in this case is an impeachment of every one of his predecessors. Unless they have all been lacking in knowledge, acumen, or integrity, then Mr. Bird must be wrong.

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Details of expenses necessarily incurred in England before shipment of woolen goods can safely be made to the United States, none of said expenses adding in any way to the wholesale market value of the goods.

Upon receipt of goods from the manufacturer they are unpacked and compared with original patterns for designs and colors. An examiner is notified, and sends a van with two or more men, who remove the pieces, without our assistance, take them to the examiner's place of business, and return them, in due course, piling them up in our rooms, again without help from us. The distance covered by the van each way will average at least a mile, and will sometimes be 3 or 4 miles. This carrying, with the horses, van, and labor employed, constitutes a considerable cost to the examiner, which is included in his general charge to us.

The examiner will then ascertain width and measure of each piece and carefully test it for strength. The piece is then opened out to its full width and thrown over a perch. Two or more men examine every square inch of the cloth to detect flaws, imperfections, or damages, noting each and indicating same by a string tied into the selvage. If too many are found in any piece it is considered unmerchable and is returned to the maker. A report on each piece is made to us and proper claims debited to the manufacturer.

The examiner guarantees that every flaw, imperfection, or damage shall be reported to us. If, upon arrival in New York, any unstrung imperfection is discovered one-eighth of a yard or more of cloth and the total duty which we have paid on same, are charged to the examiner's account. This is not an infrequent occurrence. The cost of such guarantee forms also part of the examiner's general charge to us. The duty thus repaid to us should, in all fairness, be refunded by the Government. But the time, expense, and routine involved in trying to recover such and other small losses, prevent importers from attempting to do so, leaving the Government in possession of a great deal of money to which it is not entitled. In fact, we ought not to pay weight duty on any damaged parts of the cloth. If not subject to ad valorem duty, why should they pay weight duty? They have cost nothing and have no value. This question has never been raised, to our knowledge, and we are taking counsel as to whether it ought not to be. We have paid many thousands of dollars as weight duty on such damaged and worthless goods, and we ought to have our money back.

The handling, hauling, and pulling about of the piece of cloth during the process of examining wrinkles and musses it. It must be put back into its original smooth and marketable condition. That can not be done when it is dry. It must be made wet, or "damped." (The examiner is almost invariably spoken of in England as a "damper" not as a "shrinker.") The piece, having been damped, is generally hung on tenter-hooks until almost dry, then is taken down and "cold-pressed." That pressing removes all wrinkles and puts the piece back to its original condition. It does not improve its condition nor add at all to its market value. No piece of woolen cloth, or any woolen garment or blanket, can be made wet and not shrink somewhat as it dries, and it will so shrink after each of four or five or more wettings. But in the case of the piece of cloth which has been "damped" in England (or "London shrunk," as the process is often erroneously called by Americans, never by Englishmen), it is not returned to us as dry as when received from the manufacturer. On every piece of cloth thus "damped" and imported by us we pay, on the average, weight duty upon half a pound of water. This duty is 22 cents, or 11 pence sterling, per piece. This is no loose statement, for we have many times proved the fact. We have often shipped cases of woolen goods from England, placed in bonded warehouse on arrival here, and after six or seven weeks found an average loss of at least 4 pounds per case, or the equivalent of half a pound per piece. In the damp English climate moisture is retained, but in our drier atmosphere it quickly evaporates. No American tailor dares to make up into garments a "London shrunk" cloth without shrinking it. At the request of some of our customers we send all of their goods to New York shrinkers before we deliver them. There should not be any duty claimed by the Government because of any so-called "shrinking." But, all the same, the Government does receive 22 cents duty on water, and water purely, from every piece of "damped" goods imported into the country. This "shrinking" question has been fully gone into by various appraisers of this port in the past, and no duty been exacted or paid, except perhaps by a few importers who did not know their rights.

In addition to the aforesaid various items of service rendered by the examiner, and his important guarantee, he holds in storage for us any of our goods until we are ready to make shipments. He does hold a great many goods for us for periods of several months at a time, and this storage cost is likewise included in his general charge to us.

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The maximum cost to or expense incurred by us for all the items above specified is never in excess of 5 shillings sterling per broad piece of cloth. If the 11 pence per piece which the Government unwittingly receives as duty on water be deducted, there will remain, say, 4 shillings per piece to be considered. The appraiser contends that all of the items described herein are dutiable. We claim that, as not one of them nor any part of one of them adds in the slightest degree to the "wholesale market value" of the goods, there is no ground in law, reason, or equity why they should be dutiable, either in whole or in part.

We not only vouch for the exact truth of each statement made in these papers, but we stand ready to demonstrate every alleged fact to any properly authorized Government agent.

NEW YORK, *August, 1911.*

COSTS, CHARGES, AND EXPENSES.

During the life of the Wilson bill, when duties were 50 per cent ad valorem without any weight duty, immense quantities of low-grade worsted coatings, thousands upon thousands of pieces each season, were sent to this country from Bradford. (Such goods do not come at all now, the rates of the present law being prohibitory.) They were generally bought "in the gray," that is, woven only, just as they left the looms. The buyer sent the pieces to a dyer, next to a finisher, then had them packed and shipped. These methods gave easy opportunities for undervaluations which were almost impossible of detection. Appraisers and special agents were obliged to rely upon disinterested importers of good repute to obtain samples of goods and figures of costs before values could be ascertained. Hundreds of invoices were greatly advanced and heavy penalties collected, over which litigation went on for years.

When the Dingley bill was passed the words "costs, charges, and expenses," used in the entry oath, were intended to cover that class of goods. They were not intended to apply to the necessary "costs, charges, and expenses" incident to the examination of goods before they could safely be shipped, and where no addition was made to "wholesale market values." Not a word can be found in any congressional debate to suggest that they were so intended, and until now it has never been seriously claimed by any appraiser that they were. If it had been sought to put such a burden upon importers, why should not the expenses incurred in going to England to buy the goods also have been made dutiable? Such expenses undoubtedly form part of the cost of the goods to the importer. If expenses of buying are exempt, why should expenses of examination after buying be made chargeable?

Our goods, now under consideration, were not bought in a partially completed state and then put through other manufacturing processes. They were bought for delivery to us in a fully completed condition, "packed ready for shipment." To exact the additional duties now demanded is arbitrarily to increase the rates of duty imposed by law. No such power rests in the appraiser of the port. Hence we submit that in making additions to our invoices without giving any fair reason or explanation the action of the appraisers have been unwarranted, oppressive, and indefensible.

The one General Appraiser decided in our favor and against the Government. Of course the Government appealed—it always does, no matter how clearly it may have been shown to be in the wrong—and in due course the case was again tried before three General Appraisers. The Government subpoenaed practically every woolen merchant in New York, but proved nothing whatever by them. On the contrary, every man sustained our contentions. Postponement after postponement was asked for by the Government. The special agent of the Treasury resident in London was called upon for a special report. After long delays the report was received, and was entirely confirmatory of the testimony we had adduced. Again, in due course, the three General Appraisers decided fully in our favor and sustained our invoices.

We naturally supposed that our long legal contest, which had cost us ten times as much money as would have covered all that was illegally demanded from us by Mr. Appraiser Bird and Mr. Collector Loeb, would have ended any advances of the same kind. On the contrary, we were informed that the 2 cents per yard would not be any longer added to our invoices, but that a gross sum exactly equal to 2 cents per yard would be noted upon each invoice by the appraiser as a proper amount to be added upon liquidation by the collector. Thus the decisions of the Board of General Appraisers, made after Messrs. Wemple, Lawrence, and other law officers had been given every possible opportunity to prove their cases, were utterly ignored, and Messrs. Bird and Loeb, acting, as we presume, under the authority of Mr. Assistant Secretary Curtis and the law officers above mentioned, proceeded to nullify the law.

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Have we not fairly proved, as against the Treasury officials and their legal advisers, our charges of pettifoggery practices, petty tyrannies, and outrageous extortion?

As the result of the nullification of the law and the ignoring of the decisions of the Board of General Appraisers by Messrs. Bird and Loeb, we have been compelled to continue our protests upon each invoice when liquidated and to have each one tried again before the Board of General Appraisers upon issues which they have already decided.

[NOTE: Such indecent and outrageous acts of tyranny by customhouse officials should be made impossible under the expected new administrative act.]

We desire now to call the attention of the committee to positive thefts or embezzlements by the Government, carried on continuously under the present act.

When our goods were advanced 2 cents per yard that advance carried with it a "rascality" penalty of 2 cents per yard more. On the next and all subsequent invoices received by us we added the 2 cents per yard to avoid the penalty of the additional 2 cents per yard, but indorsed upon each invoice as follows:

"Importer adds to make market value as claimed by United States appraiser on previous invoices. But importer claims addition is made under duress, in order to avoid delay and possible additional duties, pending litigation before the United States Board of Appraisers.

"E. H. VAN INGEN & Co., Importer."

We took this action because in the decision of the Stein case (by the U. S. Court of Customs Appeals, T. D. 31007, Oct. 18, 1910) payments made "under duress" were declared to be illegally collected and must be returned. That the customs officials heretofore mentioned, collector, appraiser, and Assistant Attorney General, ignored the above decision, will appear by the indorsement beneath our above-quoted indorsement, as follows:

"Importer is informed that this office does not require him to make any addition to his invoice value on entry.

"_____,
"Deputy Collector."

It must be understood that if we had not made this addition of 2 cents per yard to each invoice the appraiser would have added 2 cents per yard and the collector would have made us pay 2 cents per yard more, or a total of 4 cents per yard, before we could make any protest or have any standing before the Board of General Appraisers.

Upon each one of our invoices thus indorsed we paid the duty on the 2 cents per yard "under duress." When our test cases, and others exactly similar, had been decided by the Board of General Appraisers in our favor and against the Government, we demanded return of the money which we had paid to the collector "under duress," and which had been declared by the Board of General Appraisers as illegally collected. But the collector refused to return our money, and Mr. Assistant Secretary Curtis, while admitting that the retaining of our money was indefensible, declared that he saw no way by which, under the law, the money could be returned. "But," he added, "if the amounts were sufficient to make it worth while, I should be willing to join in a request to Congress to pass a bill authorizing the return of such moneys." The honesty of the United States Government is, therefore, apparently, in the opinion of the Treasury Department, merely a question of amount or size of the theft in any given case. A great deal of money is thus retained.

[NOTE.—Such flagrant dishonesty by customhouse officials, acting in the name of the United States Government, should also be made impossible under the new administrative act.]

The average duties on manufactures of wool collected under the Payne-Aldrich bill have been equal to, say, 95 per cent ad valorem. That is the rate of duty provided by Congress in the tariff law. But "cases" and "packing expenses" must, it is claimed, be included in the wholesale manufacturing value and be subject to 55 per cent ad valorem duty.

A "case" of woolen goods usually contains merchandise of about \$500 in foreign value. Ninety-five per cent upon \$500 equals \$475. The wooden case in which it is contained costs about \$4, or fully double as much as it would cost in this country. We are obliged to pay \$2.20 duty upon it, because it contained woolen goods dutiable at 55 per cent ad valorem. (Perhaps we ought to be grateful that the lobby agents of domestic manufacturers did not insist upon our also paying 44 cents a pound on the packing case, since that weight duty forms part of the tariff on woolen goods.)

[NOTE.—The very same packing case, if brought over empty, would have paid 30 per cent ad valorem instead of 55 per cent.]

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Two dollars and twenty cents added to \$475 equals \$477.20, or the equivalent of 95.46 per cent.

A "case" of woolen goods of this foreign value, \$500, would contain, say, 10 pieces. Paper, twine, etc., would cost, say 2½ cents for each piece, or 25 cents for the whole 10 pieces. The manufacturer will supply all such things without adding anything to the wholesale manufacturing price. Such items are included in his price, as much so as a butcher includes wrapping paper in the price of his meat. Certainly they are not fairly dutiable. But every now and then it is claimed, under the present custom-house régime, that they are. If duty were collected on the paper, etc., it would be at the rate of 55 per cent, or at the same rate as the duty on the woolen goods which they covered, and would amount to 13½ cents on the 10 pieces.

[NOTE.—The very same paper, if not covering woolen goods, would pay a duty of 30 per cent ad valorem, instead of 55 per cent.]

Thirteen and three-fourths cents added to \$477.20 equals \$477.33½, or the equivalent of 95.49 per cent.

The Congress of the United States imposed a duty equivalent to 95 per cent ad valorem on woolen goods. It did not authorize a duty of 95.49 per cent.

[NOTE.—The 0.49 of 1 per cent thus added has given rise to more complaints, heart-burnings, and angry protests than almost any section in the bill, and has cost the Government and importers, in time and money, many times more than the whole duty would have amounted to, if collected.]

Railroads have a right to charge on extra weight of baggage. What would the Ways and Means Committee think of a railroad insisting that hand-bags, clothes on the passenger's back, his boots, and the contents of his pockets should be included in the weight of his baggage? That would be no smaller, or meaner, than the action of the United States Government demanding that paper, twine, etc., which cost nothing, should be made to pay an extra duty as part of "wholesale market value."

These petty, greedy additions to the tariff should be done away with and a clause inserted in the new act as follows:

"The expenses necessarily incurred in the examination of woolen goods after they are delivered by the manufacturer in order to ascertain if the merchandise is according to sample and free from defects, also the cost of ordinary wooden packing cases and the necessary wrappings and twine required for their safe transportation shall not be dutiable."

Appraisers can not detect undervaluations. They know nothing about woolen goods. In fact, they rely upon their examiners to judge of values. But what can examiners, living in New York, know about values in any foreign country? Such officials receive annual salaries of \$2,500 or less. To pass intelligently upon foreign values, experts, easily commanding three or four times such salaries, would be required. First-class intelligence and education can not be obtained at fourth-rate wages. There is one way to detect undervaluations, and one only, viz, to take the invoices of reputable importers of unquestioned character and high credit, and make those invoices standards of value for the guidance of examiners and appraisers. Does Mr. Secretary MacVeagh or Mr. Assistant Secretary Curtis, both of whom have sneered at the suggestion that there could be an honest importer, suppose that the Claffin Co., Arnold, Constable & Co., John Wanamaker, B. Altman & Co., Marshall Field & Co., or any one of a host of others, would undervalue their goods? Honest importers are anxious only to stop undervaluations, and would gladly render to the Government any assistance in their power. In fact, they have been doing so for the last 40 years, as everybody connected with the customs service prior to the advent of Messrs. Curtis, Loeb, and Bird can easily testify. But those gentlemen, suspicious of everybody, have asked for no such assistance, and have made a general mess of their administration.

There has been but one refuge for honest importers during the present maladministration of customs affairs, namely, the Board of General Appraisers. No unprejudiced person could have attended their hearings without being impressed by the evident desire of the general appraisers to be just to both the Government and importers, and to consider, thoroughly and patiently, all that could be said on either side. If importers had been placed at the mercy of the Treasury Department there would have been little hope of redress against any outrage.

We believe it to be the almost universal opinion of importers that the present system as regards the independent position of the Board of General Appraisers should not be essentially changed in the new administrative act.

The idea of there being no court quickly accessible to importers whose judges shall be free in making their decisions from the dictation of the Treasury Department which, in such a court, acts as both plaintiff and prosecutor, can hardly call for dis-

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cussion before fair-minded men. Yet that seems to be the demand of Mr. Secretary MacVeagh, and the unique committee of investigation which he has constituted and which is composed of the very men who, by their working of injustice, have aroused universal obloquy.

E. H. VAN INGEN & Co.

Hon. O. W. UNDERWOOD,
Chairman Committee on Ways and Means.

SIR: We have carefully considered the brief prepared by Messrs. E. H. Van Ingen & Co. to which this is attached.

Approving and indorsing every suggestion and recommendation offered therein, we earnestly ask for the attention of your honorable committee.

Yours, respectfully,

W. O. WILLIS & Co.,
156 Fifth Avenue, New York.

MILBANK LEAMAN & Co.,
320 Fifth Avenue, New York.

WILLIAM B. LEONARD, New York.

J. B. THOMPSON & Co., New York.

FRED BUTTERFIELD & Co., (INC.),

Per P. B. WORRALL, *President*, New York.

BRIEF SUBMITTED BY IMPORTERS OF GLASSWARE AT NEW YORK.

NEW YORK, January 30, 1913.

Hon. OSCAR W. UNDERWOOD,
Chairman Committee on Ways and Means, House of Representatives.

SIR: We, the undersigned importers of glassware at the port of New York, respectfully suggest for your consideration the following changes in the administrative provisions of tariff act of August, 1909, for the reasons set forth. The changes suggested have been made with the idea of preserving as near as possible the phraseology of the present act.

PENAL DUTIES AS PROVIDED IN SECTION 7, ADMINISTRATIVE ACT.

Respectfully suggested that the portion of this section reading "An additional duty of 1 per cent of the total appraised value thereof for each 1 per cent that such appraised value exceeds the value declared in the entry," shall be changed to read: "An additional duty of 1 per cent of the entered value thereof for each 1 per cent that the appraised value exceeds one hundred and ten (110) per cent of the value declared in the entry."

Our reason for suggesting this change is that under the present act an importer is frequently penalized for slight changes in market value of which he has no knowledge at the time of making entry.

There are frequently minor changes in market value which take place between time of purchase and delivery, and within a reasonable limit, such as 10 per cent, there seems to be no fair reason why an invoice which is true and correct should be penalized for advances in value within the limit here specified.

Or a more just provision would be:

"That in the event of an importer proving, to the satisfaction of the Board of General Appraisers, that the invoice offered for entry shows the price or prices actually paid for the goods and therefore there was no intention to defraud, the said board shall certify to the Secretary of the Treasury such facts, and the Secretary shall therefore authorize the remission of all duties in excess of those levied upon the appraised valuation."

This would be advantageous to the honest importer but not to the dishonest importer, as the latter could not comply with the provisions here mentioned.

DEFINITION OF MARKET VALUE SECTION 18, ADMINISTRATIVE ACT.

Respectfully suggested that the clause, beginning with the words, "Including the value of all cartons, cases, etc.," and ending with "United States," be omitted.

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This will make the dutiable value the market value of the merchandise at the factory and eliminate the duty on packages (when such are usual containers).

There seems to be no good reason for a protective tariff on packing cases, for these cost abroad always as much and frequently considerably more than they cost in this country. And when the duty and transportation charges are taken into consideration the laid-down cost of such packages is many times the value of the domestic product, for example:

Many foreign cases cost laid down at the port of New York about \$4 each, whereas the same package could be purchased in this country for about \$1.

As shown in exhibits sent to you under date of January 7, 1913, these packing charges under the act of 1909 increase the actual duty paid on staple goods very materially, for example, on staple glassware the duty is increased from 60 per cent to about 80 per cent on account of these charges. See brief and exhibits as published in hearings before Ways and Means Committee, volume 4, pages 537-546.

Also respectfully suggested that the following provision be added to the definition of market value in this section:

"Provided, That whenever such merchandise is sold only for export, or sold only in limited quantities in the home market, the market value as herein defined shall be construed to mean, the price for export to any and all countries."

This suggestion is made for the reason that there are many factories abroad who manufacture for and sell practically only export trade; as the demand for their wares in the home market is so small that they can only distribute a very small percentage of their output to home trade, and sales are only made to local dealers in limited quantities.

Furthermore, many articles imported into the United States are so different in form, construction, and texture they can not be compared with those used in the foreign market. Under such circumstances the price made to purchasers in other countries should be considered the correct basis for duty.

DETERMINATION OF MARKET VALUE, SECTION 11, ADMINISTRATIVE ACT.

We recommend that all calculations based upon selling prices in the United States as mentioned in this section be eliminated, at least in so far as they refer to purchased goods, for the reason that the operation of this section under the present act has not been satisfactory to either the Government or the importer and the question here involved can be treated more definitely under section 18 as amended.

Importers as a class are honorable and reputable merchants, and, with very few exceptions, invoices offered for entry by importers are absolutely true and correct and show the prices actually paid for the goods.

In any event there are no advantages offered by section 11 over the plan suggested in section 18 for the accurate determination of facts in the question at issue, and on account of the variety of conditions attending sales of imported goods in this country it is practically impossible to determine a wholesale price that would form a correct basis for calculations, in accordance with section 11, for any commodity.

Or, if the above suggestion is not consistent with the opinion of your committee, we respectfully suggest that the last clause of this section reading, "Or a reasonable allowance for general expenses and profits (not to exceed 8 per cent) on purchased goods," be changed to read "Or a reasonable allowance for general expenses and profits (not exceeding 8 per cent) on purchased goods."

There has always been more or less uncertainty as to the construction to be placed on this clause, that is, whether the 8 per cent was to cover general expenses and profits, or whether 8 per cent was to be allowed for profits only.

This section states very clearly that on consigned goods a profit, or commission of 6 per cent, is allowed, and certainly a purchaser should be allowed a profit of 8 per cent, as in any business depending on purchase and sale of merchandise the expenses alone will be considerably in excess of 8 per cent, thus leaving no profit at all for consideration on purchased goods.

The change here suggested merely makes the meaning or intent of the law more certain.

ADDITIONS TO MARKET VALUE MADE "UNDER PROTEST" PENDING REAPPRAISEMENT.

Respectfully suggested that there be inserted in section 23 of the administrative act, after the words "or payments made upon appeal," the following: "Or when additions to make market value are made by the importer (under protest) at the time of entry and a lower market value is finally determined by the General Appraisers, or any one of them."

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Such additions as those here referred to are invariably made by the importer solely for the purpose of avoiding penal duties, and (being made under protest) not because he admits the correctness of the addition.

There seems to be no good reason, therefore, why any additional duties thus paid should not be refunded on liquidation, provided they are proved to be in excess of the correct amount as determined by law.

Under the present act there is no provision for the return of duties paid by the importer on such additions, so that the collector is frequently compelled to assume the position of retaining duties which are admittedly incorrect. Such acts would hardly be considered legal if practiced by banks or other depositaries, and the need for proper legislation to rectify this inconsistency is most urgent.

ABANDONMENT OF DAMAGED GOODS, SECTION 22, ADMINISTRATIVE ACT.

Respectfully suggested that the clause reading, "*Provided*, That the portion so abandoned shall amount to ten per centum or more of the total value or quantity of the invoice," be changed to read: "*Provided*, That the portion so abandoned shall amount to ten per centum or more of the total value or quantity of any case or package specified on the invoice."

It frequently happens that certain cases of an importation have a very large percentage of breakage, or damage, although this may not quite equal 10 per cent of the total invoice, and it does not seem fair that in cases of excessive breakage the Government should demand duties on goods which in the case of fragile material such as glass can have no commercial value. The provisions in this section certainly seem sufficient to prevent an abuse of the privilege by unscrupulous parties.

Owing to the fact that duties must be paid before merchandise is unloaded, it is not always practicable for importers to comply with the provisions of this section of present act. A provision should be enacted by which a Government inspector may make an examination on the dock of the damaged merchandise and the amount of damage recorded at the customhouse, so that a rebate for the duty paid on the portion damaged, provided same equals or exceeds the percentage above mentioned, may be made upon final liquidation of entry.

PARAGRAPH 98, SCHEDULE B.

Respectfully suggested that in the list of processes referring to ornamentation of glass the word "colored" be omitted, or a provision added to this paragraph to the effect, that for the purposes of this act glass colored in the pot (during the process of melting) is not to be considered as glass, colored.

Our reason for this suggestion is that the various processes mentioned in the present act are intended to refer to operations involving additional labor after the article is made in glass, whereas the coloring of glass in the pot, by the mere addition of certain chemicals to the batch, takes place before the substance can be called glass at all, and does not involve any additional labor. Furthermore, such coloring, with very few exceptions, is done for utilitarian purposes rather than for ornamentation.

Also respectfully suggested that the clause in this paragraph reading "and all articles of every description, including bottles and bottle glassware composed wholly or in chief value of glass" be omitted, for the reason that the present act construes plain undecorated articles as being in the same class as articles which have some ornamentation, which is not consistent and extremely detrimental to the importation of staple articles, for which such protection is not necessary, and from which considerable additional revenue might be derived if tariff specifications were more favorable.

Respectfully submitted.

H. G. McFaddin & Co., 38 Warren Street; M. Kerchbeyer & Co., 374 Second Avenue; Fondeville & Van Iderstine, 37 Warren Street; Penton Ruhe, 47 Murray Street; Wm. Rhoe & Sons, 53 Murray Street; A. B. Gunther, 219 Broadway Street; Henry Endumum, 32 Park Place; Franz Euler & Co., 1 Hudson Street; O. H. Carrossnedbrowly, 127 Duane Street.

SECTION 28.

BRIEF SUBMITTED BY ROBERT J. HEARNE, OF THE DURBROW & HEARNE MANUFACTURING CO., NEW YORK, N. Y.

NEW YORK, January 7, 1913.

Hon. OSCAR W. UNDERWOOD,

*Chairman Committee on Ways and Means,**House of Representatives, Washington, D. C.*

GENTLEMEN: The changes proposed herewith are submitted as a whole. It is difficult to separate the various paragraphs or subsections of section 28 because they are so interwoven into one another that it would seem necessary to consider the whole in order to make a proper revision.

The revision asked for is almost entirely concerned with the removal of disabilities under which the importer suffers now. The laws are very harsh and arbitrary, and there is nothing that is asked for that is not in accordance with ordinary justice as administered in the courts.

The attempt has been made to conserve the interests of the Government in all respects and at the same time prevent complications. The present law is very involved, and its meaning on many important points is only gotten at by implication.

In the proposed changes submitted herewith a printed copy of the tariff law, as published by the Government, has been used. New matter is in italics and old matter is inclosed in brackets.

SECTION 25.

Sec. 25. That where imported materials on which duties have been paid are used in the manufacture of articles manufactured or produced in the United States, there shall be allowed on the exportation of such articles a drawback equal in amount to the regular duties, *but not any additional duties imposed for fraudulent undervaluation*, paid on the materials used, less one per centum of such duties: *Provided*, That when the articles exported are made in part from domestic materials the imported materials, or the parts of the articles made from such materials, shall so appear in the completed articles that the quantity or measure thereof may be ascertained: *And provided further*, That the drawback on any article allowed under existing law shall be continued at the rate herein provided. That the imported materials used in the manufacture or production of articles entitled to drawback of customs duties when exported shall, in all cases where drawback of duties paid on such materials is claimed, be identified, the quantity of such materials used and the amount of duties paid thereon shall be ascertained, the facts of the manufacture or production of such articles in the United States and their exportation therefrom shall be determined, and the drawback due thereon shall be paid to the manufacturer, producer, or exporter, to the agent of either or to the person to whom such manufacturer, producer, exporter, or agent shall in writing order such drawback paid, under such regulations as the Secretary of the Treasury shall prescribe.

That on the exportation of medicinal or toilet preparations (including perfumery) hereafter manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used: *Provided*, That no other than domestic tax-paid alcohol shall have been used in the manufacture or production of such preparations. Such drawback shall be determined and paid under such rules and regulations and upon the filing of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation, as the Secretary of the Treasury shall prescribe.

That on the exportation of any imported goods on which any duties have been paid, there shall be refunded to the exporter, or to any person to whom such exporter shall in writing order such refund to be paid, the regular duties paid thereon, but not any additional duties imposed for fraudulent undervaluation, less five per centum of such duties: Provided, however, That such exportation must take place within one year from the date of importation, and that the exportation be made by the original importer, but proof of the identity of such goods shall be made under regulations to be prescribed by the Secretary of the Treasury.

That the provisions of this section shall apply to materials used in the construction and equipment of vessels built for foreign account and ownership, or for the Government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

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COMMENT: The object of this proposed change is:

1. To give the importers some of the privilege now extended to manufacturers by the drawback provisions. This privilege is extended, no matter how little manufacturing is done, on the imported material. It is also in line with the liberal spirit shown in admitting machines duty free for repairs (sec. 18). The importer is an employer of labor, just as much as a manufacturer. His trade is an industry, and should be promoted, as well as farming or manufacturing.

2. It will give the American merchant an increased opportunity to handle export business, in competition with foreign ports, and thereby increase the commerce of the United States, and obviously, it can not hurt American manufacturers. The opening of the Panama Canal will, it is believed, enhance the importance of American ports as export centers.

3. It will provide some revenue, because small as the amount proposed to be retained by the Government is (5 per cent), the present bonded warehouse privilege brings in no revenue, and the proposed change will make it practicable to inaugurate new business with near lying foreign countries.

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SUBSECTION 4.

SEC. 4. That except in case of personal effects accompanying the passenger, no importation of any merchandise exceeding [one hundred] *two hundred and fifty dollars* in value shall be admitted to entry without the production of a duly certified invoice thereof as required by law, or of an affidavit made by the owner, importer, or consignee, before the collector or his deputy, showing why it is impracticable to produce such invoice; and no entry shall be made in the absence of a certified invoice, upon affidavit as aforesaid, unless such affidavit be accompanied by a statement in the form of an invoice, or otherwise, showing the actual cost of such merchandise, if purchased, or if obtained otherwise than by purchase, the actual market value or wholesale price thereof at the time of exportation to the United States in the principal markets of the country from which the same has been imported; which statement shall be verified by the oath of the owner, importer, consignee, or agent desiring to make entry of the merchandise, to be administered by the collector or his deputy, and it shall be lawful for the collector or his deputy to examine the deponent under oath, touching the sources of his knowledge, information or belief, in the premises, and to require him to produce any letter, paper, or statement of account in his possession, or under his control, which may assist the officers of customs in ascertaining the actual value of the importation or any part thereof, and in default of such production, when so requested, such owner, importer, consignee, or agent shall be thereafter debarred from producing any such letter, paper, or statement for the purpose of avoiding any additional duty, penalty or forfeiture incurred under this act, unless he shall show to the satisfaction of the court or the officers of the customs, as the case may be, that it was not in his power to produce the same when so demanded; and no merchandise shall be admitted to entry under the provisions of this section unless the collector shall be satisfied that the failure to produce a duly certified invoice is due to causes beyond the control of the owner, consignee, or agent thereof: *Provided*, That the Secretary of the Treasury may make regulations by which books, magazines, and other periodicals published and imported in successive parts, numbers, or volumes, and entitled to be imported free of duty, shall require but one declaration for the entire series. And when entry of merchandise exceeding [one hundred dollars] *two hundred and fifty dollars* in value is made by a statement in the form of an invoice, the collector shall require a bond for the production of a duly certified invoice.

SUBSECTION 4.

COMMENT: The limit of \$100 of value of importations requiring consular certification is too low.

The present consular fee is \$2.50, which amounts to 2½ per cent on \$100. While the fee is unimportant on large importations, it is a heavy tax on small importations, and as the growth of the parcel post business shows, there are a great many small importations, and this growth should be fostered, not hampered.

Many other countries do not tax importations in this manner at all, and in view of the heavy duties collected it does not seem fair.

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A better remedy would be, perhaps, to graduate the consular fees, making it nominal on small amounts.

This latter remedy is perhaps not within the province of the present proposed revision.

SUBSECTION 7.

"SEC. 7. That the owner, consignee, or agent of any imported merchandise may, at the time when he shall make and verify his written entry of such merchandise, but not afterwards, make such addition in the entry to or such deduction from the cost or value given in the invoice or pro forma invoice or statement in form of an invoice, which he shall produce with his entry, as in his opinion may raise or lower the same to the actual market value or wholesale price of such merchandise at the time of exportation to the United States, in the principal markets of the country from which the same has been imported; and the collector within whose district any merchandise may be imported or entered, whether the same has been actually purchased or procured otherwise than by purchase, shall cause the actual market value or wholesale price of such merchandise to be appraised; and if the appraised value of any article of imported merchandise subject to an ad valorem duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the value declared in the entry, there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, an additional duty of one per centum of the total appraised value thereof for each one per centum that such appraised value exceeds the value declared in the entry, *if it shall appear that the person making the entry, knowingly and with fraudulent intent, entered the same at less than the actual cost, or less than the market value when the market value is less than the actual cost.* Such additional duties shall not be imposed in case of manifest clerical error: *Provided*, That the additional duties shall only apply to the particular article or articles in each invoice that are so undervalued, and shall not be imposed upon any article upon which the amount of duty imposed by law on account of the appraised value does not exceed the amount of duty that would be imposed if the appraised value did not exceed the entered value, and shall be limited to seventy-five per centum of the appraised value of such article or articles. [Such additional duties shall not be construed to be penal, and shall not be remitted nor payment thereof in any way avoided except in cases arising from a manifest clerical error, nor shall they be refunded in case of exportation of the merchandise, or on any other account, nor shall they be subject to the benefit of drawback:] *Provided*, That if the appraised value of any merchandise shall exceed the value declared in the entry by more than seventy-five per centum, except when arising from a manifest clerical error, such entry shall be held to be presumptively fraudulent, and the collector of customs shall seize such merchandise and proceed as in case of forfeiture for violation of the customs laws, and in any legal proceeding other than a criminal prosecution that may result from such seizure, the undervaluation as shown by the appraisal shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he shall rebut such presumption of fraudulent intent by sufficient evidence. The forfeiture provided for in this section shall apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles in each invoice which are undervalued: *Provided further*, That all additional duties, penalties, or forfeitures applicable to merchandise entered by a duly certified invoice shall be alike applicable to merchandise entered by a pro forma invoice or statement in the form of an invoice, and no forfeiture or disability of any kind incurred under the provisions of this section for *fraudulent undervaluation* shall be remitted or mitigated by the Secretary of the Treasury. The duty shall not, however, be assessed in any case upon an amount less than the entered value, *but manifest clerical errors may be corrected as hereinafter provided.*

COMMENT: This section is unnecessarily harsh, and herds the sheep with the goats. The proposed change still leaves the punishment for fraudulent undervaluation, and it is a punishment, notwithstanding that the paragraph says "such additional duties shall not be construed to be penal."

The interest of the Government is safeguarded in the case of exportation by proposed changes in paragraph 25, and the latter part of the paragraph still provides that penalties for fraudulent undervaluation are not to be remitted.

There should be no penalizing of an importer who makes an honest entry.

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SUBSECTION 13.

"SEC. 13. That the appraiser shall revise and correct the reports of the assistant appraisers as he may judge proper, and the appraiser, or, at ports where there is no appraiser, the person acting as such, shall report to the collector his decision as to the value of the merchandise appraised. At ports where there is no appraiser the certificate of the customs officer to whom is committed the estimating and collection of duties, of the dutiable value of any merchandise required to be appraised, shall be deemed and taken to be the appraisement of such merchandise. If the collector shall deem the appraisement of any imported merchandise too low, he may, within [sixty] *ten* days thereafter, appeal to reappraisement, which shall be made by one of the general appraisers, or if the importer, owner, agent, or consignee of such merchandise shall be dissatisfied with the appraisement thereof, and shall have complied with the requirements of law with respect to the entry and appraisement of merchandise, he may within ten days thereafter give notice to the collector, in writing, of such dissatisfaction. The decision of the general appraiser in cases of reappraisement shall be final and conclusive as to the dutiable value of such merchandise against all parties interested therein, unless the importer, owner, consignee, or agent of the merchandise shall be dissatisfied with such decision, and shall, within five days thereafter, give notice to the collector, in writing, of such dissatisfaction, or unless the collector shall deem the reappraisement of the merchandise too low, and shall within ten days thereafter appeal to re-appraisement; in either case the collector shall transmit the invoice and all the papers appertaining thereto to the board of nine general appraisers, to be by rule thereof duly assigned for determination. In such cases the general appraiser and boards of general appraisers shall proceed by all reasonable ways and means in their power to ascertain, estimate, and determine the dutiable value of the imported merchandise, and in so doing may exercise both judicial and inquisitorial functions. In such cases hearings [may in the discretion of the general appraiser or Board of General Appraisers before whom the case is pending] *shall* be open and in the presence of the importer or his attorney and any duly authorized representative of the Government, who may in like discretion examine and cross-examine all witnesses produced, *and the importer or his attorney shall have the right to examine all evidence produced on the part of the Government.* The decision of the appraiser, or the person acting as such (in case where no objection is made thereto, either by the collector or by the importer, owner, consignee, or agent) or the single general appraiser in case of no appeal, or of the board of three general appraisers, in all reappraisement cases, shall be final and conclusive against all parties and shall not be subject to review in any manner for any cause in any tribunal or court, *unless the amount of additional duties or penalties assessed by the decision is over two hundred and fifty dollars, in which case appeal may be taken in the same manner as hereinafter provided for appeals in the matter of classifications and rate of duty, to the Customs Court of Appeals, which court shall have exclusive appellate jurisdiction in such matters, as well as in the matters of classification and rate of duty as hereinafter provided,* and the collector or the person acting as such shall ascertain, fix, and liquidate the rate and amount of the duties to be paid on such merchandise, and the dutiable costs and charges thereon, according to law.

COMMENT: As a matter of fact the appeal by the collector for reappraisal is seldom availed of by the collector. It is not necessary. The valuation made by the appraiser is for all practical purposes the only appraisal, and it is the appraiser's duty to increase values when he thinks they are too low.

The collector's function is not really that of an appraiser. As the title intimates, his duty is to collect, not to assess.

The law practically delegates all powers of appraisal to the appraisers. As the law stands now it gives the collector 60 days' time to raise values after the appraiser has made his report, which is a great injustice to the importer.

The privilege of open hearings should not be discretionary. It is a right, not a favor, and for the same reason the importer should have the right to examine any evidence which is to be used against him.

The provision that decisions of the boards of appraisers are not subject to review etc., by any court seems too harsh. The boards of appraisers are an admirable body of men, but it is quite conceivable that grave errors can be made in appraisals, and the Customs Court should have some jurisdiction, say in matters where the amount involved is over \$250.

Appeals have been successfully maintained, not as to the valuation of goods, but as to the manner of ascertaining values, thereby nullifying this provision in part.

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It were much better, however, to provide for such cases in the tariff law, rather than to compel the importer to make extraordinary efforts to obtain what he is entitled to, i. e., his day in court when his money is at stake.

SUBSECTION 14.

"SEC. 14. That the decision of the collector as to the rate and amount of duties chargeable upon imported merchandise, including all dutiable costs and charges, and as to all fees and exactions of whatever character (except duties on tonnage), shall be final and conclusive against all persons interested therein, unless the owner, importer, consignee, or agent of such merchandise, or the person paying such fees, charges, and exactions other than duties [shall, within fifteen days after but not before such ascertainment and liquidation of duties,] as well in cases of merchandise entered in bond as for consumption, *shall*, within fifteen days after the payment of such duties, fees, charges, and exactions, if dissatisfied with such decision, give notice in writing to the collector, setting forth therein distinctly and specifically, and in respect to each entry or payment, the reasons for his objections thereto, and if the merchandise is entered for consumption shall pay the full amount of the duties and charges ascertained to be due thereon. Upon such notice and payment the collector shall transmit the invoice and all the papers and exhibits connected therewith to the board of nine general appraisers, for due assignment and determination as hereinbefore provided; such determination shall be final and conclusive upon all persons interested therein, and the record shall be transmitted to the proper collector or person acting as such, who shall liquidate the entry accordingly, except in cases where an application shall be filed in the United States Court of Customs Appeals within the time and in the manner provided for in this act: *Provided, however, That it shall not be lawful, except in cases of clerical error, for the collector, on liquidation, to change the classification or rate of duty payable on any merchandise when the classification rate of duty payable which is stated in the entry is in accordance with the report made by the appraiser, nor shall the importer have the right to appeal in such cases, except in cases of clerical error.*

COMMENT: The proposed change in this section is to correct a very unjust condition of things, which has arisen because of lack of clearness of the law.

As pointed out in the argument advanced for proposed change in section 28, subsection 13, the function of the collector is that of collecting.

The duty of appraising or assessing is delegated to the appraiser and his deputies, assistants, and examiners.

In like manner, the Board of Appraisers are to decide disputes, and for this reason should be relieved from passing on matters which are not in dispute. At the present time matters of clerical error, shortage, and damage are passed on by the board when there is really no dispute.

Liquidation should be properly confined to correction of errors and making of allowances as provided for by law.

As the law stands at present, if an importer pays additional duty on an entry, which he believes he is not entitled to pay, he has no right of protest until liquidation occurs, and as there is no fixed date when it occurs, and he is not notified, he loses his right of appeal unless he watches liquidations at the customhouse, which means a weekly visit to the customhouse, and an examination of the liquidation notices. It would seem only proper that the time for protest is when the act protested against occurs, and that liquidation should not take place as long as the matter is in dispute.

In the case of parcel-post packages it has been held (T. D. 32957) that the liquidation occurs when the duty is assessed in the first place, and that an importer has only 15 days from that time to protest.

Now this means that the entry, appraisal, and liquidation are simultaneous; consequently the collector really has no direct knowledge of the matter until afterwards.

The proposed change would work for uniformity in practice here, and would conserve all rights the Government now has as to correction of errors.

SUBSECTION 18.

SEC. 18. That whenever imported merchandise is subject to an ad valorem rate of duty, or to a duty based upon or regulated in any manner by the value thereof, the duty shall be assessed upon the actual market value or wholesale price thereof, at the time of exportation to the United States, in the principal markets of the country from whence exported; that such actual market value shall be held to be the price at which such merchandise is freely offered for sale to all purchasers in said markets, in the usual wholesale quantities, and the price which the manufacturer or owner

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would have received, and was willing to receive, for such merchandise when sold in the ordinary course of trade in the usual wholesale quantities, including the value of all cartons, cases, crates, boxes, sacks, casks, barrels, hogsheads, bottles, jars, demi-johns, carboys, and other containers or coverings, whether holding liquids or solids, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, and if there be used for covering or holding imported merchandise, whether dutiable or free, any unusual article or form designed for use otherwise than in the bona fide transportation of such merchandise to the United States, additional duty shall be levied and collected upon such material or article at the rate to which the same would be subjected if separately imported. That the words "value," or "actual market value," or "wholesale price," whenever used in this act, or in any law relating to the appraisement of imported merchandise, shall be construed to be the actual market value or wholesale price of such, or similar, merchandise comparable in value therewith, as defined in this act: *Provided, however, That when the importer has obtained the merchandise by actual purchase within thirty days of the time of shipment to the United States, and where it shall appear that no other consideration was paid for the merchandise than the amount specified in the invoice and entry, that it shall be presumptive evidence that the value stated in the invoice and entry is the actual market value or wholesale price, and the burden of proof to rebut same shall be on the appraiser or collector: Provided, however, That when the country from whence exported is not the country of original origin or manufacture, and that the goods have not left the possession or ownership of the original purchaser since the shipment from the country of original origin or manufacture, the duty shall be assessed on importation, into the United States, on the market value, which would be appraised, if they had been shipped directly to the United States: Provided, however, That in no case, except in cases of fraudulent valuation, shall the total amount of duty assessed on any importation of merchandise, whether the rate be ad valorem or specific, or a combination of both, exceed one hundred per centum of the appraised value.*

COMMENT: All these changes are equitable. It is almost axiomatic, that the amount of money for which a merchant will sell his merchandise, when there is no other consideration but the money, is the market value.

It must be the measure of value for the merchant, and he must have market conditions in mind when he sells.

However, the Government is still protected. If the appraiser can show otherwise, he still has the opportunity to do so.

As to the importation from another country than that of original shipment, the justice of this is shown by the fact that the importer can obtain the same result by returning his goods to the country of original shipment, and reshipping to the United States, but it seems a great hardship that he should be compelled to do so, and it is of no benefit to this country if he does.

SUBSECTION 22.

SEC. 22. No allowance shall be made in the estimation and liquidation of duties for shortage or nonimportation caused by decay, destruction or injury to [fruit or other perishable articles] *damaged merchandise* imported into the United States whereby their commercial value has been destroyed, unless under regulations prescribed by the Secretary of the Treasury. Proof to ascertain such destruction or nonimportation shall be lodged with the collector of customs of the port where such merchandise has been landed, or the person acting as such, within ten days after the landing of such merchandise. The provisions hereof shall apply whether or not the merchandise has been entered, and whether or not the duties have been paid or secured to be paid, and whether or not a permit of delivery has been granted to the owner or consignee. Nor shall any allowance be made for damage, but the importers may within ten days after entry abandon to the United States all or any portion of goods, wares or merchandise of every description included in any invoice and be relieved from the payment of duties on the portion so abandoned: *Provided, That the portion so abandoned shall amount to ten per centum or more of the total value or quantity of the invoice. The right of abandonment herein provided for may be exercised whether the goods, wares or merchandise have been damaged or not, or whether or not the same have any commercial value: Provided, further, That section twenty-eight hundred and ninety-nine of the Revised Statutes, relating to the return of packages unopened for appraisement, shall in no wise prohibit the right of importers to make all needful examinations to determine whether the right to abandon accrues, or whether by reason of total destruction there is a nonimportation in whole or in part. All merchandise abandoned*

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to the Government by the importers shall be delivered by the importers thereof at such place within the port of arrival as the chief officer of customs may direct, and on the failure of the importers to comply with the direction of the collector or the chief officer of customs, as the case may be, the abandoned merchandise shall be disposed of by the customs authorities under such regulations as the Secretary of the Treasury may prescribe, at the expense of such importers. Where imported fruit or perishable goods have been condemned at the port of original entry within ten days after landing, by health officers or other legally constituted authorities, the importers or their agents shall, within twenty-four hours after such condemnation, lodge with the collector or the person acting as collector, of said port, notice thereof in writing, together with an invoice description and the quantity of the articles condemned, their location, and the name of the vessel in which imported. Upon receipt of said notice the collector, or person acting as collector, shall at once cause an investigation and a report to be made in writing by at least two customs officers touching the identity and quantity of fruit or perishable goods condemned, and unless proof to ascertain the shortage or nonimportation of fruit or perishable goods shall have been lodged as herein required, or if the importer or his agent fails to notify the collector of such condemnation proceedings as herein provided, proof of such shortage or nonimportation shall not be deemed established, and no allowance shall be made in the liquidation of duties chargeable thereon.

COMMENT: The proposed change in this section is entirely warranted. There is nothing inherent in fruit or perishable articles that entitles the importer of these goods alone to relief in case of damage, which relief is denied the importers of other goods. As a matter of fact, it is generally easier to ascertain if a damage claim is justifiable in the case of nonperishable goods than it is to fruit and perishable goods, which damage so quickly and readily that it is difficult to ascertain whether they arrived damaged or spoiled after importation.

If the above proposed change be adopted, then paragraph 138, Schedule C, would need revision, as far as manufactured goods go. The nonallowance for rust on iron and steel unmanufactured is just, for obvious reasons.

Respectfully submitted by

THE DURBROW & HEARNE MANUFACTURING CO.
ROBERT J. HEARNE, *Secretary and Treasurer.*

Schedule C, as amended, is attached hereto.

SCHEDULE C.

PARAGRAPH 138.

138. No allowance or reduction of duties for partial loss or damage in consequence of rust or of discoloration shall be made upon any description of iron or steel, [or upon any article wholly or partly manufactured of iron or steel, or upon any manufacture of iron or steel.]

SUBSECTION 1.

LIABILITY OF IMMEDIATE CONSIGNEES OF IMPORTED GOODS.

NEW YORK, *January 29, 1913.*

THE WAYS AND MEANS COMMITTEE,
House of Representatives, Washington, D. C.

GENTLEMEN: We respectfully suggest an amendment to subsection 1 of section 28, tariff act of 1909.

The suggested amendment is that bankers, customs brokers, express and forwarding companies when acting as consignees in good faith and declaring an ultimate consignee or owner, and when such ultimate consignee or owner is a resident of the United States, should be relieved from the obligations of any civil action for the payment of additional duties after such entry has been liquidated and the merchandise delivered, and all duties due at that time have been satisfied.

The reasons for suggesting this amendment are based on the interpretation of this act in the United States Circuit Court of Appeals in the case of *Baldwin et al v. United States* (113 Fed. Rep., 217, 218), in which it was held that "The Government is not called upon to hunt up any ultimate consignee when there is a primary consignee to whom the goods are sent, and who himself presents the invoice, makes the entry, receives the bill of lading, and gets the goods; thus being himself their importer."

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The Vandiver case, reported in 133 Fed. Rep., 252, held in substance that the consignee, although acting in good faith under section 1, was liable for the penalties and additional duties.

Is it reasonable to have a law for the purpose of making an innocent person pay the penalty for the dishonest act of another?

Agents for importers do not act as consignees for any personal gain, but only to facilitate the delivery of merchandise to such parties as can not conveniently transact their own business or make a personal visit to the port of importation.

If we feel obliged to accommodate presumably an honest importer by attending to the necessary customs formalities, so as to save him both time and money, why penalize us for a small number of such persons who may be found to be dishonest.

A great many consigned goods are sent to a customs broker to enter at the customs port for distribution to the ultimate consignee and owners. Among these importers are the poorest immigrants as well as our citizens, located all over the United States, who could not afford the time and expense to visit any customs port of entry for the purpose only to engage the service of a customs broker for the same fee.

Customs brokers, through their knowledge of customs regulations and procedure, assist the paid customs officers in the collection of revenue in a great many ways.

In conclusion, we wish to state that the ultimate consignee or owner is declared in the entry, and the Government has sufficient facilities at its disposal to make such collections, and there is no reason why an unjust discrimination should be made against any person acting in good faith by demanding from such person the payment of huge sums of money, which are alleged or found to be due the Government years after the liquidation of such entries on the ground of fraud.

In cases where fraud has been discovered and duties on such entries are due the Government, regardless of any time limit, the innocent customs broker, banker, or forwarder, is called upon to pay them.

The statute of limitations of three years only covers penalties on fraudulent importations, but the duties on such importations can be collected from any period, and under the decisions referred to the innocent consignees acting in good faith are liable for the criminal acts of another person without any redress.

Respectfully submitted.

FRED'K L. KRAEMER & Co.

SUBSECTION 3.

UNDERVALUATION AND FALSE INVOICES.

DANIEL S. PRATT & Co.,
Boston, January 30, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.

DEAR SIR: In reply to your letter of the 4th ultimo, I beg to submit the following "suggestions looking to the betterment of administrative features of the law," for the purpose of checking undervaluation frauds and false invoices under an ad valorem tariff.

To enable the United States Treasury Department to collect the full customs duty under an ad valorem tariff there should be a reform in the manner of making and declaring the consular invoice, to the end that the frauds of undervaluation may be checked, if not entirely prevented.

The law should provide that: Before any invoice is submitted to the United States consul at the port of shipment a member of the shipping firm, or an officer of an incorporated company shipping the merchandise, shall appear before the judge of a court at the port of shipment and present an invoice of the merchandise to be shipped, which invoice shall clearly state what said merchandise is, with all necessary details relating thereto, and including its true cost at said port of shipment, and the said shipper shall make oath before the judge of said court to the truth of all statements and details expressed in the invoice. If the merchandise is manufactured cloth, the shipper shall attach a sample of such material to the invoice, stating its component parts—i. e., whether of cotton, silk, wool, shoddy, or whatever else it may be. The judge of said court shall either certify upon the invoice or attach to the invoice a

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certificate setting forth the oath that has been made by the person appearing before him.

Having made oath to the truth of the invoice before the judge of a court in his own city, he will then take the invoice to the United States consul, identifying himself as the individual whose oath before the local court is attached to the invoice, and make the usual declaration before the consul.

Upon arrival of the merchandise at a United States port if any fraud is detected the penalty should be the confiscation of the merchandise, and papers setting forth the facts should be immediately forwarded to the United States consul at the port of shipment with instructions to immediately proceed against the shipper, before the court wherein he swore falsely to his invoice, and have him punished for that offense. I believe it would require but a very few convictions before this evil was stopped.

I feel convinced that some such provision as the above will remove the greatest danger from an ad valorem duty in Schedule K. I have no doubt that such a plan will be opposed, and some will say that it will put the foreigners to extra expense, and that they will not like it, but I think the United States Congress will be quite within its rights in defining the terms and conditions upon which merchandise may pass through our customhouses, just as was the case when the law was passed that no foreign steamship could enter our ports unless properly equipped with life-saving facilities for all the people on board. I am,

Very truly, yours,

DANL. S. PRATT.

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114 FRANKLIN STREET,
New York, January 31, 1913.

Hon. OSCAR W. UNDERWOOD,

Chairman of the Committee on Ways and Means, Washington, D. C.

SIR: The administrative part of the present tariff imposes considerable hardship on importers in such cases where a dispute arises regarding market value between the importer and the appraiser. There are instances where the appraiser claims that the market value is higher than the goods are invoiced, and the importer, rather than have the following shipments delayed, has advanced the price to appraiser's figure before entering invoice. This incurs additional duty to the importer, which is not refunded under the present law, although the importer's original value may have been sustained later on upon reappraisement by the higher authority. It would therefore look only fair that the Government refunds such duties that the importer has paid on the increased value "under duress."

In connection with this practice by the customhouse authorities, importers have been trying to withhold goods from entering until the market value of the first shipment under dispute has been decided upon and it was learned that the collector would not permit part of an arriving shipment entered and let the other part go on general order. The present law provides that the entire shipment must be entered or sent on general order, and a provision seems to be advisable that part of an incoming shipment can be entered for consumption or for bond and the balance be permitted to go on general order and treated as not having arrived in the United States, especially in such cases where market values are in dispute.

Respectfully submitted.

S. M. HOHL.

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TESTIMONY OF MR. T. S. TODD.

The witness was duly sworn by the chairman.

Mr. TODD. Mr. Chairman and gentlemen of the committee, I am a customhouse broker in New York, and on behalf of some of my clients I desire to speak to you for a moment and call attention to the

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hardship that is frequently practiced on importers by reason of the conflict of two paragraphs of the administrative act, whereby the Government takes duty on an excessive valuation, and when the valuation has been determined judicially by the Board of General Appraisers they do not refund to the importer the excess duty which has been taken. I refer to the last portion of subsection. 7.

Provided further, That all additional duties, penalties, or forfeitures, applicable to merchandise entered by a duly certified invoice, shall be alike applicable to merchandise entered by a pro forma invoice or statement in the form of an invoice, and no forfeiture or disability of any kind incurred under the provisions of this section shall be remitted or mitigated by the Secretary of the Treasury. The duty shall not, however, be assessed in any case upon an amount less than the entered value.

The conflict is the last portion of section 28, subsection 13 of section 28:

The decision of the appraiser, or the person acting as such (in case where no objection is made thereto, either by the collector or by the importer, owner, consignee, or agent), or the single general appraiser in case of no appeal, or of the board of three general appraisers in all reappraisement cases shall be final and conclusive against all parties and shall not be subject to review in any manner for any cause in any tribunal or court, and the collector or the person acting as such shall ascertain, fix, and liquidate the rate and amount of the duties to be paid on such merchandise, and the dutiable costs and charges thereon, according to law.

An importer will pay duty on merchandise at a certain valuation indicated in his invoice, and the appraiser may be of the opinion that it is undervalued to the extent of, say, 10 per cent; he thereupon adds 10 per cent to the importer's value; the importer appeals the case to the Board of General Appraisers; his merchandise may be of such a character as to require immediate delivery on account of its perishable nature or seasonable nature, and upon a subsequent entry arriving before a decision has been made by the Board of General Appraisers it is necessary for the importer to add in each instance in order to cover the addition made by the appraiser, because if he does not add, and the appraised value should be maintained, he will be penalized 1 per cent for each 1 per cent advanced by the appraiser. If, on the other hand, he meets the advance by the appraiser successfully before the Board of General Appraisers and his value is reduced to the original entered or invoice value, the Government does not refund to him in final liquidation the additional duty which it has taken from him under duress.

Mr. PALMER. And the other items——

Mr. TODD (interposing). All items that may have been advanced or be entries made subsequent to the first entry wherein the appraiser made an advance?

Mr. PALMER. He gets back that which he paid in the first case but not on the others?

Mr. TODD. He does not get back any of it if he wins his case before the Board of General Appraisers, except on the first entry. In the first entry he gets back his duty.

Mr. PALMER. That is what I said.

Mr. HILL. Would he not get back the duty he paid if he made a protest in the subsequent cases?

Mr. TODD. No, sir; the board's decision is final and conclusive against all parties and is not subject to protest or review in any court.

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Mr. HILL. I mean when the subsequent importations were entered, if he made a protest the decision in the first case would govern all the others?

Mr. TODD. No, sir; the collector will not allow you to make an addition to value under protest. In fact, I have a case of that kind in New York now where I did add, in order to meet the value claimed by the appraiser, and stated on my invoice that this addition was made under duress in order to meet the value claimed by the appraiser. The collector thereupon refused the passage of my entry and required that I should eliminate from the entry and the invoice the statement that it was done under duress. He did, however, allow me to make the statement that the addition was made in order to meet the value claimed by the appraiser. When that invoice was subsequently passed upon by the Board of General Appraisers, which was four months, I think, after the date of my entry, and was decided in favor of the importer, the collector refused to liquidate the entry at a value less than the value declared upon the entry. That question I have protested, but has not yet been heard before the board. I think, however, one case of that sort has already been decided by the board adversely and is now before the Customs Court.

My firm presented this question to the Ways and Means Committee at the time of the formation of the present bill, on page 8410 of the tariff hearings, but no relief was afforded in that bill. We have presented to the Ways and Means Committee a letter dated the 16th of December, in which we make a suggestion which I think will meet the condition. The suggestion is that the latter portion of subsection 7 shall read:

The duty shall not, however, be assessed in any case upon an amount less than the entered value: *Provided*, That where an addition at the time of entry has been made to the invoice value, to meet the advance made by the appraiser, which invoice value has been sustained by the Board of United States General Appraisers, duty shall be assessed only upon such invoice value.

That, in my judgment, would meet the situation and allow the importer to claim the benefit of a decision rendered in his favor. There is another feature that I should like to submit to you gentlemen for just a moment, but before I close on the other question I would like to say that in fully 50 per cent of the cases of advances made by the local appraiser the Board of General Appraisers reverses such advances. I have the reappraisal circular issued by the Treasury Department—this is an old one of August, 1911—wherein 55 per cent of the appraisement cases in that circular were reversed by the board; another one dated July 10, 1911, wherein more than 50 per cent of the cases of advances made by the local appraiser were reversed by the board, showing that the importer's original entered value was correct.

Mr. DIXON. That is on the theory that if they make a mistake they think it is proper to make a mistake in favor of the Government instead of the importer.

Mr. TODD. That is the case where the appraiser acts on what he may consider to be perfectly good and competent evidence, but which, on more detailed investigation, may prove not to have been well founded, and, therefore, the board will give the importer the benefit of that investigation.

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Mr. LONGWORTH. About how much do you think this would amount to yearly?

Mr. TODD. In refunds?

Mr. LONGWORTH. Yes. How much would the revenues amount to?

Mr. TODD. I have not made any calculation at all on that, Mr. Longworth. I should say that the reappraisements throughout the country are something like 3,500 cases a year; I am not positive, but I think about 3,500, and I should think——

Mr. HILL (interposing). It depends a good deal on how long a tariff law has been in effect, does it not?

Mr. TODD. No, sir. The reappraisements only have reference to the market value, and 50 per cent, I think, will be decided in favor of the importer.

Mr. LONGWORTH. Then, in about 1,800 cases the Government would lose a certain amount of revenue, but just how much you do not know?

Mr. TODD. I should not call it revenue; I should call it confiscation.

Mr. LONGWORTH. Well, it would be money that the Government would lose?

Mr. TODD. Yes, sir, but to which it has no title.

Mr. LONGWORTH. But you have not made up any estimate of how much that would be, whether it would be \$1,000,000, or more or less?

Mr. TODD. No, sir; but it would amount to a very considerable sum, because some of these reappraisements involve very large interests. There was a case decided about a month ago covering the question of the value of Russian wool. That had been under investigation for something like nine months, and, while I was not connected with the case at all, I saw in the paper that something like \$4,000,000 was involved in that particular case. That was also decided in favor of the importer.

The other question I desire to submit to you is in reference to the oath that is taken by the importer regarding the importations. At present the oath is placed on the reverse side of the entry we make up, on which we make a detailed statement as to the description, rate of duty, etc., covering the importations. The importer signs this oath and delivers it to the collector of customs with the invoice and bill of lading. The oath says:

I, ———, do solemnly and truly declare that I am the owner, by purchase, of the merchandise described in the annexed entry and invoice.

There have been two cases at the port of New York—two within my knowledge, but undoubtedly there were more—wherein the importer, having been accused of some irregular practice, was called before the courts and made the positive statement that he did not know he was swearing to the value and description of that particular invoice under investigation, because he thought this entry blank contained, when he handed it to the collector, but one invoice instead of two invoices. Another case was where the affidavit on this entry which was taken before a customs notary, or before the collector of customs, was claimed by the importer not to have been made by him; the importer claimed he did not make the affidavit to the entry, that he did not appear before the notary, and, as a matter of fact, I think, he denied that it was his signature on the entry. In both of those cases the Government had some difficulty in proving fraud on

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the part of the importer. My suggestion is that that oath, whether it be for purchased or consigned goods or where an agent acts, should, in each and every instance, be applied to the invoice and each invoice. Some of these entries contain as many as 40 or 50 invoices, and this oath that I have just read to you says that he is making a true statement, as indicated by the annexed entry and invoice. By putting the oath on the invoice it would make the importer acknowledge that he knows the contents, and if he does not know he is responsible by his signature, or he assumes the responsibility of presenting to the collector, through his broker, that invoice. And therefore the oath should be transferred from the entry blank to the actual invoice.

Mr. PALMER. The invoices are attached to the entry blanks, are they not?

Mr. TODD. They are not attached. No; they are just folded in here [indicating] until the duty has been figured by the collector's department and we pay the duty. Then the invoices are removed from this blank. This blank remains in the customhouse and the invoices go before the appraiser for classification. Subsequently they are returned and are folded in here again, and then the entry is finally liquidated; but if you require that the importer shall certify, swear to, and sign each particular invoice, then he must necessarily be governed by his act.

Mr. HAMMOND. Do you propose an oath for each invoice?

Mr. TODD. Yes, sir; the owner's oath can be in the form of a rubber stamp and can be stamped on the invoice, but the importer should be required to make declaration as to the correctness of his valuation and his description of the invoice itself. They are all in his possession before they come into the possession of the broker; and if he passes it to the broker and any trouble arises, he is apt to throw the trouble, if he can, on the broker.

Mr. HAMMOND. There would be no question, then, as to what invoice the oath referred to?

Mr. TODD. If the oath is attached to the invoice, he necessarily assumes the responsibility that that oath carries; and I think that would be more binding than if made as it is now.

The letter referred to by the witness follows.

T. S. TODD & Co.,
CUSTOMHOUSE BROKERS AND FORWARDERS,
New York, December 16, 1912.

The WAYS AND MEANS COMMITTEE,
Washington, D. C.

SIRS: The present tariff penalizes imports without any possible justification.

On merchandise paying an ad valorem duty the United States appraiser very often makes addition to the entered value, on what he considers to be good information, which addition is sustained by the Board of General Appraisers requires the importer to pay not only the regular additional duty thereby accruing, but a further duty of 1 per cent on the total amount of the advanced item for each 1 per cent advanced.

More than 50 per cent of the advances made by the appraisers are reversed by the Board of General Appraisers, as shown by the official records, but the importer, although honestly believing his invoice value correct, is obliged on all future importations, pending the Board of Appraisers' decision, in order to secure his merchandise very often urgently needed, and obviate the payment of the 1 per cent penalty, to add to his invoice to make the value claimed by the appraisers.

If the importer's originally entered value is sustained by the General Appraisers the increased duty thus paid under duress is retained by the Government.

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This is manifestly inequitable, and we therefore ask for some provision in the administrative act whereby the additional duty thus paid, where the originally invoiced value is sustained, should be refunded, and beg to suggest the following as an addition to:

"SEC. 7. * * * The duty shall not, however, be assessed in any case upon an amount less than the entered value: *Provided*, That where an addition at the time of entry has been made to the invoice value, to cover advance made by the appraiser, which invoice value has been sustained by the Board of United States General Appraisers, duty shall be assessed only upon such invoice value."

Such a provision would afford ample protection to the revenue and relieve the importer of the loss and hardship of penalties the exaction of which by the Government is indefensible.

We have the honor to be, yours, respectfully,

T. S. TODD & CO.

**TESTIMONY OF MR. B. B. BONHEIM, REPRESENTING SEARS,
ROEBUCK & CO., CHICAGO, ILL.**

The witness was duly sworn by the chairman.

Mr. BONHEIM. Gentlemen, I appear before you to suggest to you the possibility and advisability of amending the administrative provisions of the act of 1909. There are four items which I would like to call your special attention to.

First. We most respectfully suggest the amendment of subsection 7 of section 28 of the act of August 5, 1909, by the insertion after the words "shall exceed the value, declared in the entry" and immediately preceding "there be levied, collected and paid", "by more than 5 per cent," and a further proviso that shall eliminate the assessment of an additional or penal duty on the first 5 per cent of the advance, even where the appraising officers advance the merchandise above this line, except where fraud is intended or proven.

That provides for a penalty of 1 per cent for every 1 per cent that the appraiser may add.

Second. That there be added to the administrative provisions of the tariff act a clause which places the burden of proof upon the appraising officers wherever the advance in value was such as to incur a penal duty.

Third. An amendment of the administrative provisions of this act which will not only permit but require the appraising and collecting officers to place such information at the disposal of the importer which will enable him to make an honest entry at the proper market value.

The CHAIRMAN. Don't they do that now?

Mr. BONHEIM. No, sir.

The CHAIRMAN. How did such a case come up?

Mr. BONHEIM. I had in mind a little case that came up not long ago. We are interested in the basket industry. I personally went to Europe with one of the buyers and investigated a concern that we thought of favorably. These people have a small establishment. They have some clerks, stenographers there; they have some samples of baskets on the shelves. They said if you do not want those you can get a number of different samples of baskets, and we will take you out to so and so, small houses around here, and we will order the baskets for you and pack them for you and then charge you a commission of 5

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per cent. This was very usual. We entered into this agreement. I personally was fully confident that these people were bona fide commissioners. Our buyer who goes over there every year was also confident. It now appears that Achenbach, one of the agents of the Government in Germany, was informed that these people were as a matter of fact in the employ of this concern; that these people furnished them with the material; and I am frank to admit that that so-called commission is not admissible free of any duty. But have not I any right to go to the Treasury and say, "What do you think of this; is it dutiable or not dutiable?" And further, I will say that I would go there, but the instructions of the department are such that we can not learn anything.

The CHAIRMAN. Is it because of its impossibility or an Executive order?

Mr. BONHEIM. An Executive order forbidding him to do so.

The CHAIRMAN. Nothing in the law?

Mr. BONHEIM. No, sir. I have gone all through that law, and while there is nothing in the law, this ruling of the Treasury Department itself becomes a law, at least so far as the examining officials are concerned.

A fourth request—and I think this is perhaps the most important of the lot, and I think it will not only aid the importer but it will greatly aid the administration in collecting the revenue from customs and collecting it justly, and this request is as follows:

We request you gentlemen to amend subsection 18 of section 28 of the act of August 5, 1909, by substituting for the words "at the time of exportation to the United States" the following: "At the time of purchase or at the contract price," or insert into this subsection after definition of market value the following words:

Provided, That the purchase price of merchandise purchased or contracted for in good faith prior to its manufacture shall be held to be the market value.

Mr. DIXON. Without any limitation as to the time when that contract may be made?

Mr. BONHEIM. Yes, sir; the contract is a definite agreement, but no manufacturer will make a contract indefinitely. What I mean is this: Take for instance, linens. Our buyers go over to Europe and buy linens in April and the first part of May. You can not buy linens off the shelves.

Mr. DIXON. My point was this: If you make a contract this year would you call that binding for supplies to be carried through 10 years?

Mr. BONHEIM. Indeed not.

Mr. DIXON. Now, that is the point. Why want the time if you want no limitation?

Mr. BONHEIM. In commercial life there is a well-established policy as to how long a contract lasts. For instance, linen goods are ordered in April or May, and that contract expires in January and February, when the goods are delivered. In embroideries it is the same way.

Mr. PALMER. There are not many contracts which run longer than a year?

Mr. BONHEIM. No; I think not.

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Mr. PALMER. I was told the other night by a witness that an American manufacturer had contracted for ferromanganese abroad for the next year—his year's supply to be shipped to him as he ordered it.

Mr. BONHEIM. For one year?

Mr. PALMER. For a year that was.

Mr. BONHEIM. Well, that is possible, although it is not a manufactured article.

Mr. DIXON. If you want this to apply as long as the price increases, would you want it to apply if that price has gone the other way?

Mr. BONHEIM. I am perfectly willing to give and take. I am perfectly willing to stand by the contract price; and if the price decreases, do not deduct to make the market value; and if the price increases, do not add to make market value.

Mr. HAMMOND. There might be three or four invoices at the same time for the same goods for American importers and the rate upon one invoice would be considerably higher or lower than the rate upon the others.

Mr. BONHEIM. No.

Mr. HAMMOND. Yes. If that valuation is to be fixed from the time of contract of purchase instead of the time of exportation, suppose that price at the time of exportation, the market value in the foreign country, is considerably greater than at the time the contract was made, then the two importers, the one who bought it about the time he exported, the other who had contracted previously, would ship in just the same quantity of goods of the same character and one would pay a higher rate than the other.

Mr. BONHEIM. No; I can not quite agree with you. I will tell you why. In those commodities which are contracted for and which have to be manufactured—which do not exist at the time the contract is made, linens, embroideries, etc.—you can not go into that market at the time the contract goods are delivered and pick up any quantities at all. You can not supply your stock. These goods are made for the people who need them. They are ordered in April and May for delivery in November, December, and January, and they must contract. It is true they may pick up a job here and there, but it is so small that it would not cut any figure.

Mr. HAMMOND. It might cut a considerable figure to the man who had to pay for the goods.

Mr. BONHEIM. No; because the amount he would be able to buy would be infinitesimally small, because it is not in stock, it can not be taken off of the shelves, it is not in existence when you order. And another thing, gentlemen, would not it be much better for the administration of the customs? I have it in my brief that I would be perfectly willing, when this amendment goes in, to permit the importer to submit to the appraising officers the contract price, the price at which he has contracted for the goods to be delivered. They would have then considerable time to investigate and see whether or not this contract price is right.

Mr. HAMMOND. How would they determine?

Mr. BONHEIM. The same as we determine our price for embroideries.

Mr. HAMMOND. Then it would require investigation into the various market values of the goods in the markets from which they were imported?

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Mr. BONHEIM. No.

Mr. HAMMOND. But suppose the market price was considerably below the contract price, what would they do in your provision?

Mr. BONHEIM. Pay what the contract called for.

Mr. HAMMOND. That is not what your provision states; it states that the contract price, if entered into in good faith, shall be the basis.

Mr. BONHEIM. Shall be the value upon which it shall be assessed.

Mr. HAMMOND. But suppose it is below the price?

Mr. BONHEIM. Then it is a fraudulent entry. I specially stipulate here that nothing in this brief shall be taken—

Mr. HILL. Do you object to section 7 as it now stands?

Mr. BONHEIM. That is the first proviso, is not it, about the 5 per cent penalty?

Mr. HILL. Yes; but the very language which you now refer to was changed in the Payne tariff bill to meet a lowering of the market price? In the old Dingley law it used just that language. You do not want an iron-bound contract, you want a contract price that is flexible. Now, is not it true that to-day you can make a contract for the delivery of goods a year from now, and when the time comes to import them they have the privilege of raising or lowering that valuation to meet the then existing market price? What more do you want?

Mr. BONHEIM. Yes; I will tell you what I want.

Mr. HILL. That changes it. It did read only to raise it, but we put in three years ago to lower it as well.

Mr. BONHEIM. I know that, and it is a very wise provision, although it is very slightly taken advantage of except in importations, which I will illustrate: A man goes over there and contracts for it in April or May. He must contract for it then. He comes back here and sends his salesmen out. But the time those goods are ready for delivery there should be a raise in the price of 10 per cent, then we would have to pay 50 per cent on this rise in the shape of duty. It means an increase of 5 per cent on the goods covered by these contracts; at present he is not sure what these goods are going to cost him.

Mr. HILL. Would not his profits be wiped out if he has no contract and has to buy in Europe at the European prices ruling at the time of importation?

Mr. BONHEIM. Yes; but Mr. Hill, I am talking of advances in merchandise, and if there is an advance in merchandise of 10 per cent, naturally the raise on that would be 50 per cent.

Mr. HILL. If the market in Europe has gone back on him he has a right now under the Payne law which he did not have before to lower his price.

Mr. BONHEIM. How about his raise?

Mr. HILL. He has the right to raise it too.

Mr. BONHEIM. But when he goes over there and contracts bona fide for merchandise it has to be delivered to him at the contract valuation of the merchandise. He sends out the buyers before he gets the merchandise and offers it at what he thinks is a fair profit. He is not to blame if certain conditions arise by which the market in December rises.

Mr. HILL. But the importers four years ago came and asked that the words "or lower," "raise or lower" might be put in there, and the

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committee, after full and careful and exhaustive discussion and consideration of the subject, put it that way as a fair proposition.

Mr. BONHEIM. I agree with you that that is one step toward it, but that this other would be infinitely better. As far as the lowering and deducting to make market value, there is only one thing to-day that is taken care of to any appreciable extent, and that is on the embroidery question.

Mr. HILL. You might just as well ask the Government to guarantee a contract on the New York Stock Exchange.

Mr. BONHEIM. Not to that extent; we only want to pay duty upon that which is honestly paid for the merchandise.

Mr. HAMMOND. Would not that open the door to fraud?

Mr. BONHEIM. I think not, sir, because the present officers would have ample time to investigate that.

Mr. HAMMOND. You would not think it conclusive evidence of fraud if the price claimed in the contract were less than the market price at that time?

The investigators would have to go further than simply to determine, to compare the market prices with the contract prices, because the contract prices might in good faith be below the market prices.

Mr. BONHEIM. Exactly, the way it is now. A buys a certain commodity at slightly less or slightly more than B, owing to the quantity that he buys or owing to certain conditions. That does not show that there is a fraud there. Conditions as they are now, the dutiable value of merchandise is that value which attaches at the time of exportation and as I desire that it shall be at the time of purchase. Where is the difference? If the Government has no time to investigate it, as proposed, if there is anything wrong it can be determined. The duty is assessed upon the value. It is a give-and-take proposition. The duty is assessed upon the value, and being assessed upon its value the importer knows exactly what that merchandise is going to cost him. He has no kick coming.

Mr. HAMMOND. I can see no objection in that part of your argument provided the purchaser notifies the Government at the time he makes his purchase of the purchase, but I understood your proposition—you go farther and provide that the contract price itself shall be the dutiable price upon which the rate is fixed.

Mr. BONHEIM. If upon investigation it is found to be the universal price at that time?

Mr. HAMMOND. Yes; but your proposition is not that the dutiable price shall be a fair market value at the time of purchase. You go farther than that and say that the dutiable value shall be that indicated in the contract—the purchase itself.

Mr. BONHEIM. If I expressed it that way, I certainly did not mean it. What I meant is this: That if A makes a contract over there in April for November delivery and submits that contract price to the appraising officers and they upon investigation find that B, C, D, and E all have paid the same prices, that is the market value. That is all I want.

Mr. HAMMOND. Yes; but why is it necessary to make any reference to the value as shown by the contract?

Mr. BONHEIM. Well, perhaps it is not.

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Mr. HAMMOND. I think so.

Mr. HILL. As it stands now, you can make a contract for delivery next year, and next year when you make your importation, if the price has gone down, you can go before the appraisers and lower your price and give them proof that it is then at the time of importation the fair market value. If, on the other hand, it has gone up, you are equally bound to go to the Board of Appraisers and raise your contract price for importation, subject of course, if you do not do it, to the penalties for undervaluation.

Mr. BONHEIM. That is right.

Mr. HILL. Now, if you have the option of doing both, raise or lower, what more do you ask?

Mr. BONHEIM. I will tell you what we ask. We are perhaps the largest importers of St. Gall embroideries in the country for retail consumption.

Mr. HILL. But others have the same rights that you have.

Mr. BONHEIM. Exactly, and I am coming to it. A man goes over there in April or May; say his entire purchase may be \$250,000. He finds that \$200,000 of this stuff he is compelled to buy landed in New York. They will not sell more to him over there, and the rest of it he buys over here. I see the invoices when the goods are brought over to be entered. I compare them with the Government stitch-rate count, which the Government receives from over there. We find that that stitch rate is considerably lower than it was in April. I cable over to those people that we buy from and ask them, "Referring to your invoice of so-and-so, please give us the total value as based upon the stitch-rate count for customs purposes." They refuse. I go to the appraiser and ask him, and he will refuse us. I can not know what the reduction is—I can not know unless I go over there. Those people have their own people over there. They ship to them. They know what the stitch rate is, and exactly what to deduct, and the honest importer does not. That very thing is playing into the hands of the biggest menace that confronts the honest collection of duties to-day, and that is the consignee-consignor proposition. We can not get the information. They know it.

Mr. HILL. Well, your goods are consigned. It is on an entirely different basis, is not it? If the appraisers are not satisfied with the assessment of the assessment board, they can take the domestic price.

Mr. BONHEIM. I grant you that 85 per cent of all the embroideries that come into this country are consigned. They know just exactly how many stitches they put into the pattern. Their consignees here know the same thing. The Government has established a stitch rate count. Say that when the contract was made it was 42 centimes per 100 stitches. It may be more or less. When the goods are imported we find a deduction necessary. The average is 16 per cent on the market value; therefore they save 60 per cent on that 16 per cent, which is 10 per cent. How can we compete? We do not know it. They will not tell us, and the Government will not tell us.

Mr. DIXON. Do you own any manufacturing establishments in that country?

Mr. BONHEIM. We have just one in the world. We bought a factory in St. Gall, Switzerland, and we were driven to it. We did not

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want it, but we can not get the proper stitch rate over there; they will not give it to us; I can not get it here. The deduction on stitch rate is 60 per cent, and 15 per cent of that is 9.6, and how can we compete?

Mr. DIXON. How would you invoice the goods sent from your establishment over there to your establishment in this country?

Mr. BONHEIM. Now, the Treasury Department, as it is now, provides that we are entitled to enter embroideries at an arbitrary value established by the Government. It is not the market value at all, but an arbitrary value. Cloth is so much, stitch rate is so much, finishing, dyeing, and boxing, etc., is so much, then you have your value. Now, if we have a factory we know it, and we can do the same as the consignee does. The contract with that factory is from year to year.

Under the present circumstances we are absolutely compelled to protect ourselves against the consignees and get our merchandise that way.

Mr. DIXON. Where did you say your establishment was?

Mr. BONHEIM. Sears, Roebuck & Co., Chicago.

Mr. DIXON. I mean the foreign manufacturing establishment?

Mr. BONHEIM. St. Gall.

Mr. DIXON. What do you manufacture there, just embroidery?

Mr. BONHEIM. We went into an arrangement with the owner, who was manufacturing there. He still owns the factory, but we take the output.

Mr. PETERS. The suggestion was made, too, that customhouse entries be made public. Have you anything to say about that?

Mr. BONHEIM. So one importer could learn the business of another? Do you think it is good business policy to do that?

Mr. PETERS. I ask you.

Mr. BONHEIM. I don't think it is good business policy to do that.

Mr. PETERS. Do you think that would have any effect?

Mr. BONHEIM. No, I think not, because, as a matter of fact, the appraisers, if they are vigilant at all, do obtain all the invoices of different importers. They can do, and they should do, comparing, and I believe they do so. Why should one importer know the inside business of the other?

Mr. PETERS. Because it would enable him to know if any competitor was undervaluing goods.

Mr. BONHEIM. Wouldn't the examiner know that? I have been an examiner of merchandise for the United States Government for 22 years. I always was fully conversant with the value of the goods. There is such a thing as an undervaluation which is perfectly legitimate. There is a difference of 1 or 2 per cent, up to 5 per cent, in the fluctuation of the market. Do you know, gentlemen, that this undervaluation business, I think, is a great bugaboo. We collected last year, I think, something like \$320,000,000 in duties, didn't we, or more? I think the penal additional duties we collected were \$350,000 out of the \$320,000,000. I believe in keeping the public straight, but I also believe in giving them a fair show. There is such a thing—I believe in making an undervaluation which is found fraudulent a crime. I believe they should be sent to jail; but a legitimate undervaluation,

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one that you are absolutely blameless of—you can't be sure all the time, you can't follow the market from day to day.

Mr. HILL. Why shouldn't you assume the entire responsibility of the St. Gault manufactory in bringing the product here?

Mr. BONHEIM. We do, in a measure.

Mr. HILL. Why shouldn't you exactly?

Mr. BONHEIM. I beg pardon?

Mr. HILL. Why shouldn't you absolutely make use of these peculiar advantages afforded you in this respect?

Mr. BONHEIM. No; I beg pardon, I didn't say that.

Mr. HILL. I understood you so.

Mr. BONHEIM. What I said was this, that the consignor sending to the consignee, knowing the stitch, the amount of stitches in a pattern, has this advantage over us.

Mr. HILL. Is there much of this contract business done, where American merchants take the products of the European factories?

Mr. BONHEIM. I understand it is done in the case of earthenware.

Mr. HILL. In the case of hosiery and underwear?

Mr. BONHEIM. I think not, sir; I have never heard of a case. Earthenware I have heard of.

Mr. HILL. Perhaps it is a little away from the question, but couldn't you get a supply of embroidery just as good in the United States?

Mr. BONHEIM. No, sir.

Mr. HILL. You can not get it at all; is that the reason you went to St. Gall?

Mr. BONHEIM. We could not procure that class of embroidery at the price which we are compelled to sell it at in this country as yet.

Mr. HILL. Then, as a matter of fact, you can contract with the factory in St. Gall to take the entire product of the factory and bring it here cheaper than the American product, notwithstanding the duty?

Mr. BONHEIM. There is hardly a comparison with the American product in embroideries. The American product does not look anything like the St. Gall embroideries. It is a peculiar style of embroidery, which has been made there for years and years.

Mr. HILL. It is only a question of price, isn't it? It is not a question of art or genius, or anything of that kind?

Mr. BONHEIM. Why, yes; the designing of the cartons is purely a question of art and genius—purely so.

Mr. FORDNEY. Do you know of any other concern, or does your concern have contracts with any other factory than the one you speak of, for any goods?

Mr. BONHEIM. No, sir; except from hearsay and talk in the trade. I know of no one besides ourselves, so as to be able to state definitely. I was over in Europe, and we were refused trade in the case of certain china factories, because they had tied up, as they called it—

Mr. FORDNEY. There might be other concerns which had contracts of that kind, and you would not know anything about it?

Mr. BONHEIM. No, sir; certainly.

Mr. HARRISON. Are there any further questions, gentlemen? Have you any further suggestions to make, Mr. Bonheim?

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Mr. BONHEIM. Now, there are two provisos in the law which I would be perfectly willing to have embodied. One is that the importer be compelled to furnish the appraising officers with the contract or purchase price, and in the other provision which I asked for, that is, that we are entitled to certain information to enable us to make an honest entry, that there be added a provision that such information given shall not act as a bar to legal proceedings instituted by the Government where they have subsequent information.

Regarding the information, as it is now, while there is no law which prohibits it, there is a regulation of the Treasury Department, notwithstanding it is absolutely true that this man and that man do obtain information and the other man does not. A thing of that kind, even from the point of view of discipline in the appraiser's service, ought to be eradicated, and it will not be eradicated and can not be eradicated until you gentlemen give us permission to go to the appraiser and ask him as to the facts. If he has not the information, he can not give it to us, but if he has the information, why lay low and lead an honest importer into a trap and then jump on him? That is what they are doing.

Mr. FORDNEY. Do you go over now and buy hosiery?

Mr. BONHEIM. No, sir; I do not buy anything.

Mr. FORDNEY. Does your concern?

Mr. BONHEIM. Yes, sir; we do.

Mr. FORDNEY. Why is it that the merchants of this country go abroad to buy hosiery when you can buy that hosiery in this country—or other knit goods?

Mr. BONHEIM. Let me say to you this, right now: I do not care practically anything about the rates of duty.

Mr. FORDNEY. About what?

Mr. BONHEIM. About the rates of duty; I don't care. I am in charge of the import department, and there is always sufficient difference in ratio between the home market and foreign production to compel us, or to enable us, just as you choose to call it, to import certain merchandise. I do not care, since the rates of duty are not prohibitive, since we can import things that we can not buy here; whatever rate of duty you gentlemen see fit to fix is agreeable to me. It is the administrative work that I am talking about.

Mr. FORDNEY. So far as the things you can buy here are concerned I agree with you; but the reason that your firm, or any other firm, goes abroad to buy hosiery or other knit goods, or any kind of goods, is because you can make more money out of it than you can out of the domestic goods; isn't that right?

Mr. BONHEIM. I say that we can make more money out of it, or I claim that we can buy a better quality at the same money. One is as broad as the other. And perhaps more so.

Mr. FORDNEY. That is true, perhaps. But it is generally conceded that we make as good goods in this country as are made abroad, and it is the strangest thing to me—of course, I may be an extremist in my views of protection—but it is the strangest thing to me imaginable that every importer that comes before this committee either wants lower rates of duty or is a free trader.

Mr. BONHEIM. I beg your pardon, sir, but there is not a word I have said that could possibly lead you to believe that——

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Mr. FORDNEY. You are asking for more favorable conditions to bring in foreign products, are you not?

Mr. BONHEIM. We are asking for absolute justice; that is all.

Mr. FORDNEY. Are you not asking for more favorable conditions to bring in your goods from Europe?

Mr. BONHEIM. We are asking that, since the importing of merchandise is not a crime, we shall not be treated as criminals.

Mr. FORDNEY. Now, to come right down to the meat in the coconut, you are asking for more favorable conditions to bring in foreign-made goods; that is what you are here for, is it not?

Mr. BONHEIM. Well, I am going to answer that in my own way. Excuse me.

Mr. FORDNEY. I want you to answer it in your own way, but I want you to answer it directly.

Mr. BONHEIM. I will, as soon as I can. If you remove the embargo—

Mr. FORDNEY. If I understand you, you buy your goods on contract extending over one or two years?

Mr. BONHEIM. I didn't say that. That is on some. There are lots of things we buy there out of stock. Toys are bought right out of stock. Jewelry is bought out of stock.

Mr. FORDNEY. You stated a moment ago that you are taking the output of a certain factory, and you are buying it on contract?

Mr. BONHEIM. Yes.

Mr. FORDNEY. And what you ask is that when the price fluctuates up and down you want to change the duty?

Mr. BONHEIM. I do not ask for that.

Mr. FORDNEY. Then I misunderstood you.

Mr. BONHEIM. I think you did. I said I would be perfectly willing to abide by the contract price, if the contract price is real value.

Mr. FORDNEY. That is what I said. If your contract price is a dollar for an article, and the price falls off to 90 cents, you want to pay duty on 90 cents instead of \$1?

Mr. BONHEIM. No, sir; you still misunderstand me.

Mr. FORDNEY. What do you want.

Mr. BONHEIM. When we go there and buy merchandise, contract for it, to use your own figures, and the contract price we pay is \$1, and that at that time happens to be the true contract price, we do desire to pay duty on that \$1 in spite of the fact that at the termination of that contract the goods are worth 95 cents or \$1.05; that is all.

Mr. DIXON. What you want to do is to have the Government put a value on these goods at the time you buy them?

Mr. BONHEIM. Not necessarily; no, sir. The Government now is investigating them at the time of exportation. I desire them to investigate the facts at the time we contract to purchase, so the importer would know what his goods cost.

Mr. DIXON. Would that be fair to the Government?

Mr. BONHEIM. Absolutely, sir.

Mr. FORDNEY. If you contract for an article over there at \$1, and before your contract expires the value of that article runs up to \$1.05 or \$1.25, you want to pay duty on \$1?

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Mr. BONHEIM. Yes, sir; and the converse; don't forget the converse. If the value goes down to 85 cents I will still want to pay duty on the \$1.

Mr. FORDNEY. That is the very thing the importers asked us to change.

Mr. HULL. When you have your contract made, you ask that if it shows a reduction the Government should protect you?

Mr. BONHEIM. What is the difference whether we pay duty on the contract price, or pay duty upon the value of the merchandise at the time of purchase?

Mr. HULL. It would make a very vast difference to the Government if the foreign value of the article advanced.

Mr. BONHEIM. I don't think so. As a matter of fact, for every dollar that we add to make market value—and we are very strict upon that point—for every dollar that we have added we have deducted ten. When I ask you for this, as far as a dollars-and-cents proposition is concerned, it is against us.

Mr. DIXON. If the Government fixed this basis for adjusting the charge that would be levied upon these goods at the value at the time the contract was made, would it not lead to collusion between the importer and the foreign shipper?

Mr. BONHEIM. Just the reverse of it. As it is now, the Government officers, through their agents abroad, must investigate certain merchandise which they do not know is coming, which comes in unexpectedly at the time of exportation. Under this plan they would have ample time to investigate, long before the goods come, and see whether or not the contract price, or purchase price, so declared by the importer, was the true one. When the goods would come in they would know it. The goods would not be held up indefinitely for investigation, and they could get them.

Mr. FORDNEY. Let me ask you this, my friend: Suppose that you, as you have been and still are doing, make a contract in Europe for goods to be delivered within the next 12 months. You are generally a good judge of the market, or you would not make that contract. You don't expect that the price is going down; you expect it to remain at the contract price, or to advance, or you will not make that contract.

Mr. BONHEIM. You are compelled to make it, sir.

Mr. FORDNEY. Then you are not as good a business man as I think you are.

Mr. BONHEIM. You can not buy linens unless you contract for them.

Mr. FORDNEY. You would not represent Sears, Roebuck & Co. very long if you were not able to exercise that ability.

Mr. BONHEIM. I am not, nor any of their buyers.

Mr. FORDNEY. They are a good concern. Now, suppose you purchased an article over there for a dollar, and during the year the price of that article advanced, I will say, 25 per cent, for an extreme illustration. You will benefit by that advance, and yet you object to paying the extra duty because of that advanced price, when it is an ad valorem duty.

Mr. BONHEIM. We are not benefited by it.

Mr. FORDNEY. If you can purchase for a dollar to-day, on a contract for 12 months, and before the 12 months expires that article has advanced 25 per cent, you are not benefited?

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Mr. BONHEIM. On that particular thing we might, but you must take the general average. I have stated, and now repeat, that for every dollar that we have added to make market value we have deducted 10.

Mr. FORDNEY. Your firm will take care of the general average; it is the article that you are contracting for that we are figuring on now, and not the general average.

Mr. BONHEIM. You know our business—we publish a catalogue, and in this catalogue we offer certain merchandise. This merchandise we must have, and absolutely have at the time that orders come in for it. We are compelled to go to Belfast, to Ireland, to Bohemia, and Germany and order our linens in April and May for delivery in November, December, or January, irrespective of the outlook of the market, or we would not have the goods.

Mr. FORDNEY. There are plenty of men in this country who feel that they have got to go to Germany to get Budweiser—beer—and there are millions of barrels being made here.

Mr. BONHEIM. We do not handle that merchandise.

Mr. FORDNEY. You could get it here.

Mr. BONHEIM. You could not, sir. You could not get 10 per cent off the linens we need in this country; you could not.

Mr. FORDNEY. Why should you not be put in competition with the smaller merchant, who goes to Europe and buys at the time of importation, and fix the market price at the same time that you import it?

Mr. BONHEIM. But he can not buy his goods except in little lots. The factories are busy right up into the fall. We have ordered goods which we expected in November, and we haven't got them yet, because they are behind.

Mr. FORDNEY. Is it not entirely possible for your concern to enter the market any time they please, other than the time of contracting, and get what they wish?

Mr. BONHEIM. No, sir; it is not possible. If there are no goods on the market it is evident there is a corner in that market somewhere, or a great demand.

Mr. FORDNEY. Protection at home gives the same thing, and if you can not corner the market and you can not decrease the quantity for sale over there——

Mr. BONHEIM. Gentlemen, do you think it is a fair proposition to make a market price for a commodity where one side has, we will say, \$50,000,000 contracted for in April and May, and the other \$50,000 worth bought in November and December, and to have the \$50,000 or \$100,000 prescribe the market value of the \$50,000,000? That is what we are doing now.

Mr. NEEDHAM. It is a fair proposition to me, to bring in goods from Europe at the same rate of duty, although you contracted six months ago for those; but when you change that system then you are unfair.

Mr. BONHEIM. Gentlemen, I will say this to you, without any breach of confidence. If that proposition for the change of the time of market value, and the proposition of divulging to honest importers such information as to enable them to make an honest entry—if you gentlemen submit that to the Treasury Department they will say, "God bless you."

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Mr. NEEDHAM. If you are at a disadvantage, why do you contract?

Mr. BONHEIM. We have to, I am telling you.

Mr. NEEDHAM. Of course you do.

Mr. BONHEIM. We would not get our goods if we did not.

Mr. NEEDHAM. And you get the output to the disadvantage of the smaller dealer?

Mr. BONHEIM. You are looking at it from an entirely warped point of view.

The brief submitted by Mr. Bonheim follows:

REQUEST AND BRIEF IN RE AMENDING THE PRESENT ADMINISTRATIVE PROVISIONS OF THE ACT OF AUGUST 5, 1909, AND ESPECIALLY THAT PORTION THEREOF KNOWN AS SECTION 28 AND CERTAIN SUBSECTIONS MENTIONED THEREUNDER AS DESCRIBED IN THE BRIEF.

The WAYS AND MEANS COMMITTEE,
House of Representatives, Washington, D. C.

GENTLEMEN: I have asked your consent to appear before your honorable body, on behalf of my firm, in regard to the possibility and advisability of amending the administrative provisions of the act of August 5, 1909.

Some of the points that I desire to bring to your notice have been set forth in my application for hearing, and are herewith repeated:

"First. We most respectfully suggest the amendment of subsection 7 of section 28 of the act of August 5, 1909, by the insertion after the words "shall exceed the value, declared in the entry" and immediately preceding "there be levied, collected, and paid" "by more than 5 per cent," and a further proviso that shall eliminate the assessment of an additional or penal duty on the first 5 per cent of the advance, even where the appraising officers advance the merchandise above this line, except where fraud is intended or proven.

"Second. That there be added to the administrative provisions of the tariff act a clause which places the burden of proof upon the appraising officers wherever the advance in value was such as to incur a penal duty.

"Third. An amendment of the administrative provisions of this act which will not only permit but require the appraising and collecting officers to place such information at the disposal of the importer which will enable him to make an honest entry at the proper market value."

A fourth request, not set forth before, is as follows: Amend subsection 18 of section 28 of the act of August 5, 1909, by substituting for the words "at the time of exportation to the United States" the following: "at the time of purchase or at the contract price," or insert into this subsection after definition of market value the following words: "Provided, That the purchase price of merchandise purchased or contracted for in good faith prior to its manufacture shall be held to be the market value."

In regard to the first request, which is in short that no additional or penal duty attach when the increase in value is less than 5 per cent, I think it is, to say the least, such a conservative and moderate demand that even the customs officers will agree to its justice. It has been my good fortune to be connected with the customs service of the United States for 23 years as an examiner of merchandise. I have been frequently honored by the department in being sent upon missions to the ports of New York, Philadelphia, Boston, and numerous others, and I can truthfully say that in investigating values and in taking the testimony of experts on the classes of merchandise under consideration I have practically never found any two of them to agree within 5 per cent of the actual value. Then, why should an importer who has bought merchandise at a fixed price and honestly enters this merchandise at this price some time later when the markets have advanced be penalized? You must remember that he receives no redress where the market has declined, unless he himself is personally conversant therewith, when he may, although he very seldom does, deduct to make market value.

It is a well-known fact and will hardly be contradicted that certain commodities fluctuate more or less, especially when the contract for their manufacture is let a considerable time prior to the delivery. As it is now, the dutiable value of merchandise is that value which attaches to it upon the date of exportation. Where this fluctuation is small and not staple, where it may decrease or increase from day to day, it is practically impossible to enter this merchandise at the exact value it

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has upon that date. The importer might just as well be asked, in a case where he had contracted for wheat in May, to enter it at the price at the day upon its exportation in December without the aid of published advice and information.

We wish to suggest that there be embodied in the law a provision which will eliminate an additional or penal duty on advances of not more than 5 per cent, so that if the appraiser sees fit to advance the merchandise 5 per cent or less, while the regular duty shall be paid upon the amount so enhanced, no additional or penal duty shall attach.

Referring to our second request, I believe what we ask is purely a matter of justice. I believe that no appraising officer should advance the value of merchandise unless he is prepared to substantiate the advance so made; and if he can substantiate it, the burden of proof should be upon him to do so. We admit that the Government, through its agents abroad, through the constant advice and information given them by importers, manufacturers, and dealers in this country are much better prepared, in a large number of cases, to know the exact market value upon a certain date of exportation than the average importer; but being in this position, it is, to our minds, a simple matter of justice and fairness to have them prove their claim and have the accused importer contradict it if possible.

It is unfortunate, but nevertheless a fact, that very few expert examiners or appraisers may be found outside of the port of New York; this no doubt is owing to the conditions that exist, such as the impossibility of the Government employing a sufficiently large number of experts at each interior port. It is but natural that these men, even though not experts, will lean toward the Government. It is true that under the surveillance of the United States special Treasury agent they may, and no doubt do, become overzealous, and knowing that they need not go to the trouble of proving an advance, they in some cases make an advance, as the saying is, on suspicion, and then "stand pat." What under the present existing conditions can an importer do? It is a most difficult matter to ask a competitive firm to testify for you, and it is only competitive firms who in the nature of things handle the same class of merchandise. So what we ask you to do is to shift all or part of this burden of proof from the shoulders of the importer to those of the appraising officer, and that especially in view of the fact that under present conditions the presumption of correctness attaches to the appraiser's valuation. Where the appraising officer advances the value of merchandise this carries with it an additional or penal duty. It is, therefore, the first step in a quasi-criminal proceeding. I know of no instance in American jurisprudence where a man is assumed guilty until he proves himself innocent. But such seems the case with the present law in the matter of alleged undervaluations. Such is the case wherever the appraising officer advances the invoiced or entered value of merchandise. All that he has to do is to state that the value is such as he has made it. The burden of proof is entirely upon the importer, and in a great number of instances, if not in the vast majority, it is practically impossible for the importer to prove that the original invoiced or entered value was correct; to attempt to do so would mean the bringing of witnesses from all the corners of the globe, for there are any number of instances where no one outside of the individual manufacturer of the particular class of merchandise has any knowledge whatsoever as to its true market value.

The present method, in our opinion, is not only unfair and unjust, but it is cumbersome and a menace to the importing public at large, if for no other reason than for the grave delay that is occasioned. Take, for instance, a case where goods are needed for a particular purpose at a particular time, and through a great effort and the expenditure of excess freight or express charges the merchandise has been gotten here within the specified time. For some reason the appraiser chooses to advance this merchandise. While it is true that the importer has the usual redress, it is also true that, unless he leaves the goods in the possession of the Government, he must first file a stipulation to abide by samples to be retained by the appraiser. This stipulation is sent to the Board of General Appraisers for their approval. It is by them returned and only then may the importer receive his merchandise, and that without the knowledge of its exact cost. At this stage the time that has elapsed is such that even in Chicago, but much more so in our branches at Dallas and Seattle, the opportunity to use this merchandise is past.

As to the third request: Embody in the customs administrative act a paragraph giving authority to and requiring appraising officers, collectors of customs, and special agents of the United States Treasury, as the case may be, to convey such information to the importer, upon his request, as will enable him to enter merchandise at values based upon such information.

Owing to the fact that according to the law the United States appraiser, or the officer acting in his stead, is given power to fix the value of imported merchandise,

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and that he is practically supreme in his prerogative, it might be well to enact a law approximately as follows: That any information obtained by the United States confidential agent, or the collectors, or any of them in regard to the value of imported merchandise, be transmitted to the United States appraisers of the various districts and ports, as the case may be, and that they, the United States appraisers or officers acting in their stead, be authorized and required by law to transmit such information, if it may affect the importation of any one importer, to this importer upon his request.

Under the present conditions, in a great number of cases, the importer is laboring in the dark. He buys merchandise at a price, and he enters the merchandise at the value which he has paid for same. The appraising officers, however, through the Government's confidential agent abroad, have certain information on account of which they may advance the values.

We buy merchandise at a price at which the same is freely offered, and we find that our goods are advanced on account of certain information in the possession of the appraising officers. Why would it not be fair and just to have this information given us prior to making entry? Or, in another instance, we buy merchandise abroad from a concern which represents itself to be commissioners. As far as our buyers can see, and to all intents and purposes, they are such. It, however, develops through information furnished by the confidential agent of the Government abroad that these so-called house workers, from whom these people are supposed to buy for us and charge us a commission for their services, are as a matter of fact in their steady employ; are their servants and working people. Of course, such being the case, they are not commissioners. They have no right to charge us a commission, and that which they call a commission is really a part of the dutiable value of the merchandise. But we do not know this, nor have we any means of ascertaining. Why, then, should we not be given this information so as to enable us to pay a larger duty than we would were we not in possession of this information? The general trend of the administration of the law has been toward this end. Not so many years ago all reappraisal proceedings were *ex parte*. To-day they are open. Within an approximately recent time the market value of burlaps has been permitted to be posted in the appraisers' stores, thus enabling us to add where necessary to make market value. We ask you to carry this to its logical conclusion; to have the customs officers of the Treasury Department of the United States furnish us such information as will enable us to make an honest entry of our merchandise at the value the Government demands. The American importers, or at least the vast majority of them, are absolutely honest, and desire nothing more than to obtain their merchandise, after payment of full required duties, with the least possible delay.

I wish to call your attention to the fact that, under the existing laws (see subsections 15 and 16 of section 28 of the act of Aug. 5, 1909), not only importers but others are required by that law to give any information that they may have relative to any merchandise subject of appraisement, and that means any merchandise that is imported. Moreover, the law provides a fine of \$100 for noncompliance. On the other hand, the instructions of the Treasury Department to the different appraisers and other Treasury officers are that they must not divulge information regarding values whatsoever; at least, that is what the importing public is told. I know of no law that forbids the appraising officer to convey such information or of any law that authorizes the Treasury Department to prohibit them from doing so. Is it a fair thing, I ask you, to have the appraising officer, knowing that the importer is absolutely honest in making his entry, withhold certain information and then, after the entry has been made, act upon this information and mulct the importer out of sums of money varying from a few dollars into the thousands? But there is another phase which we must not overlook. Is it not a bad rule, if rule it be, or a bad practice, if such it be, to have a condition prevail by which certain importers, through friendship of examiners or otherwise, may obtain certain information that is withheld from others? Will not this condition if it exists, and it can not help but exist, work in the end great harm to the honesty and integrity of the appraising system; and should it not for this very reason be eradicated and a system put in its place by which any honest importer could obtain the same kind of information as his neighbor, and that without going about it surreptitiously, but ask it as a matter of right and justice and not as a favor?

If this request is granted, I would be perfectly willing to have a proviso added which would stipulate that any information so given by the appraiser to the importer shall not act as a bar against legal proceedings that may be instituted by the Government where subsequent information had been received showing fraud or fraudulent intent.

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This phase of our customs law I find is incomprehensible to people that we do business with, such as merchants and manufacturers in Germany, Austria, Belgium, France and Switzerland, for in all these countries an importer may not only obtain advice as to the value and rate at which to enter his merchandise, but he may ascertain the actual amount of money the Government demands him to pay on certain definite merchandise.

In cases where the importer either does not request the necessary information, or after having obtained this information refuses to be guided thereby, then of course the law as it is at present may be followed, except as heretofore mentioned.

Regarding our fourth request, it would simply mean that the importer after purchasing or contracting for his merchandise for future delivery would, when sending his salesmen on the road, know what this merchandise would cost him exactly, which at present he does not. Take for instance the case of linens, the same are contracted for in April or May for delivery in the fall; a fair profit on linens is 8 per cent, but it happens that the market rises say 10 per cent, and at a duty of 50 per cent ad valorem, this causes a rise in the total value of the merchandise of 5 per cent, thus practically wiping out all the profit. With embroideries of St. Gall just the reverse is true and the importer deducts "to make market value," at the time of entry. Why not eliminate all this uncertainty and let us pay duty upon a definite and known value. It is really a give and take proposition. We would be barred from deducting from the actual purchase price and the appraising officers would be barred from advancing the same. We are perfectly willing in this case to have a law enacted or a regulation promulgated which shall require the importer to lay before the appraising officers such contract or purchase prices so that they may be thoroughly investigated and if found correct, the merchandise may then at the time of importation be released without delay after the payment of proper duties.

Respectfully submitted.

SEARS, ROEBUCK & Co., *Chicago, Ill.*
By B. B. BONHEIM, *Their Attorney.*

TESTIMONY OF MR. THOMAS H. DOWNING, CHAIRMAN OF COMMITTEE ON CUSTOMS SERVICE AND REVENUE LAWS.

The witness was duly sworn by the chairman.

Mr. DOWNING. Mr. Chairman, I have a brief to present which will cover practically all the points I want to discuss with the exception of a few that I will state verbally. I do not care to argue on the subject matter contained in my brief because I think that is sufficiently explanatory. But I do wish to say that the Merchants' Association of New York, which I represent, has made, through its committee, of which I am chairman, a very exhaustive study of the administrative act, extending over a period of 14 years. The changes which we have to suggest do not comprise all of the changes the association thinks should be put into effect. The bill itself is quite a complex bill and anyone who has made a study of it will know that the changes to be made in this bill must be made very carefully in order that the value of the bill may not be lost. The suggestions which we have made have been prepared very carefully and will not interfere with other portions of the act. The Merchants' Association thinks that if, in the judgment of this committee, there should be an entire revision of the bill, which the association hopes the committee will try to have made, experts should be appointed, say, from the Treasury Department, the collector's office in New York, the board of United States appraisers, and one from some business association, who shall make a very careful study of the bill in its entirety. The bill as it stands at present should be changed—

The CHAIRMAN (interposing). You are talking about the administrative features of the present law when you refer to the bill?

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Mr. DOWNING. Yes, sir. I believe that this bill should be amended in many respects, and certain changes should be made, and such changes can only be made after a revision by experts who are thoroughly familiar with the subject matter and who have had practical experience, daily and physical experience, with the operation of this law. And I hope that the committee will decide to go into this matter thoroughly and have a real revision of the law. It has never been made since this law was first written in 1890, and the law 1890 was a very drastic law; it was drawn to cover certain specific objects which it did not fulfill.

I think that is all I have to say, Mr. Chairman.

The brief filed by Mr. Downing is as follows:

THE MERCHANTS' ASSOCIATION OF NEW YORK,
New York, January 30, 1913.

THE WAYS AND MEANS COMMITTEE,
House of Representatives, Washington, D. C.

DEAR SIR: The Merchants' Association of New York submits the following suggestions as amendments to certain administrative provisions of the tariff act of 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909:

In section 5 strike out the words "before the collector, or before a notary public or other officer duly authorized by law to administer oaths and take acknowledgments, who may be designated by the Secretary of the Treasury to receive such declarations and to certify to the identity of the persons making them, under regulations to be prescribed by the Secretary of the Treasury; and every officer so designated shall file with the collector of the port a copy of his official signature and seal," and insert in lieu thereof the words "before two witnesses."

Revised section will read as follows:

"SEC. 5. That whenever merchandise imported into the United States is entered by invoice, one of the following declarations, according to the nature of the case, shall be filed with the collector of the port at the time of entry by the owner, importer, consignee, or agent, which declaration so filed shall be duly signed by the owner, importer, consignee, or agent before two witnesses: *Provided*, etc."

Subsection 7 of section 28, to be amended by striking out the words: "For each one percentum that the appraised value exceeds the value declared in the entry," and submitting therefor the words: "For each one percentum that such appraised value exceeds the value declared in the entry by more than five percentum."

Further, by inserting the following words after the words: "entered value" at the end of this subsection:

"*Provided*, That where the owner, consignee, or agent shall at the time of entry make addition to the invoice value to conform to values heretofore fixed by the appraiser, general appraiser, or board of general appraisers on a similar merchandise, and upon appeal to reappraisal called for by the importer the invoice value shall be sustained, duty in such cases shall be assessed upon said value."

The above recommendations are made with the view that they are justified by the conditions prevailing in all trades. It is reasonable that an importer should have a margin of at least 5 per cent in the purchase of merchandise in any market before additional duties for undervaluation should accrue.

In relation to the voluntary additions by importers pending reappraisal, these additions are made through the action of the Government appraisers, based on some information which may later be proven to be incorrect and of which the importer has no actual knowledge. The additions are made by the importer with a view to paying the Government the full amount of duties which they may be entitled to, provided the advance made by the appraiser is sustained by reappraisal proceedings. The Government is protected through the proposed amendment by the provision in the amendment making an appeal for reappraisal necessary on such invoices to which voluntary addition has been made pending the settlement of a test case, thereby having a report by the general appraisers of the actual market value on each invoice at the time of exportation of each.

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We do not consider that the Government desires to penalize importers who desire to make proper entry, but we contend that the importer should have some remedy in case the action of the appraiser has been proven to have been erroneous.

We suggest a further amendment to this section by striking out the following:

"The forfeiture provided for in this section shall apply to the whole merchandise, or the value thereof, in the case of package containing the particular article or articles in each invoice which are undervalued."

And submitting therefor the following:

"The forfeiture provided for in this section shall apply only to the particular article or articles, or the value thereof, in each invoice which are undervalued."

We consider this amendment a fair and equitable one. In a great many instances importers have various kinds of merchandise packed in a single case, and under the present provision in the law if a single article, no matter how insignificant the value thereof may be compared to the entire case, is found to have been undervalued, the Government must seize the entire package. We consider that the Government will be fully protected if seizure were made only of the particular items in a case which are found to have been undervalued as provided for in this section.

Also to further amend by striking out the word "manifest" in the second proviso of this section.

We consider this amendment to be a fair and equitable one as additional duties are often exacted in cases where a clerical error has been made and on which proof could be submitted to show that a clerical error had been committed, and that the additional duty did not accrue on account of any desire to defraud the Government of its just revenues. The Board of General Appraisers and the courts have construed the term "clerical error" in a number of cases, and the principle of the term "clerical error" is fully set forth in many rulings.

With these amendments the section will provide as follows:

SEC. 28, SUBSEC. 7. That the owner, consignee, or agent of any imported merchandise may, at the time when he shall make and verify his written entry of such merchandise, but not afterwards, make such addition in the entry to or such deduction from the cost or value given in the invoice or pro forma invoice or statement in form of an invoice, which he shall produce with his entry, as in his opinion may raise or lower the same to the actual market value or wholesale price of such merchandise at the time of exportation to the United States, in the principal markets of the country from which the same has been imported; and the collector within whose district any merchandise may be imported or entered, whether the same has been actually purchased or procured otherwise than by purchase, shall cause the actual market value or wholesale price of such merchandise to be appraised; and if the appraised value of any article of imported merchandise subject to an ad valorem duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the value declared in the entry, there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, an additional duty of one per centum of the total appraised value thereof, for each one per centum that such appraised value exceeds the value declared in the entry by more than five per centum: *Provided*, That the additional duties shall only apply to the particular article or articles in each invoice that are so undervalued and shall not be imposed upon any article upon which the amount of duty imposed by law on account of the appraised value does not exceed the amount of duty that would be imposed if the appraised value did not exceed the entered value, and shall be limited to seventy-five per centum of the appraised value of such article or articles. Such additional duties shall not be construed to be penal and shall not be remitted nor payment thereof in any way avoided except in cases arising from a clerical error; nor shall they be refunded in case of exportation of the merchandise, or on any other account, nor shall they be subject to the benefit of drawback: *Provided*, That if the appraised value of any merchandise shall exceed the value declared in the entry by more than seventy-five per centum, except when arising from a clerical error, such entry shall be held to be presumptively fraudulent, and the collector of customs shall seize such merchandise and proceed as in the case of forfeiture for violation of the customs laws, and in any legal proceeding other than a criminal prosecution that may result from such seizure the undervaluation, as shown by the appraiser, shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he shall rebut such presumption of fraudulent intent by sufficient evidence. The forfeiture provided for in this section shall apply only to the particular article or articles or the value thereof in each invoice which are undervalued: *Provided further*, That all additional duties, penalties, or forfeitures applicable to merchandise entered by a duly certified invoice shall be alike applicable to merchandise entered by a pro forma invoice or statement in the form

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of an invoice, and no forfeiture or disability of any kind incurred under the provisions of this section shall be remitted or mitigated by the Secretary of the Treasury, except under the provisions of sections 5292 and 5293 of the Revised Statutes, and sections 17 and 18 of the act of June twenty-second, eighteen hundred and ninety-four. The duty shall not, however, be assessed in any case upon an amount less than the entered value: *Provided, That* where the owner, consignee, or agent shall at the time of entry make addition to the invoice value to conform to values heretofore fixed by the appraiser, general appraiser, or Board of General Appraisers on similar merchandise, and upon appeal to reappraisement called for by the importer the invoice value shall be sustained, duty in such cases shall be assessed upon said invoice value."

Respectfully submitted.

THE MERCHANTS' ASSOCIATION OF NEW YORK,
By THOMAS H. DOWNING, *Chairman,*
Committee on Customs Service and Revenue Law.

NEW YORK, *February 3, 1913.*

HON. OSCAR W. UNDERWOOD,
Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.

SIR: Referring to my appearance before your committee on January 31 in relation to proposed changes in the administrative features of the customs tariff of August 5, 1909, I wish to confirm the statement I made at the time of my appearance to the effect that the present customs administrative law is very unsatisfactory.

This original law, which went into effect on June 10, 1890, and to which various amendments have since been made, was drafted by a Government employee who had acted as a special agent of the United States Government for many years. Although a man of some ability, he was of a narrow mental caliber, an ultra high protectionist and very much prejudiced in favor of the Government, and naturally opposed to allowing the importing merchants the slightest latitude.

The law as it stands at present contains many of the recommendations made by this man, and owing to the character of the phraseology and evident intention not to give the consignee or the importer the benefit of the slightest doubt, the existing provisions of the law are in many instances ultra harsh and their terms are so drastic that they really in some instances defeat the object of the drawer of the law.

For many years I have been firmly of the opinion that the whole administrative portion of the law should be redrafted by competent experts. The proposed recommendations should not be made by any one department of the Government. An expert from the Treasury Department would be very useful in making recommendations, but the Treasury Department does not have the practical experience which the collector of customs in New York and the United States Board of Appraisers daily encounter. For this reason I suggest that if you think favorably of my suggestion, you should arrange that a committee be formed for the purpose of making revisions of the customs administrative act, the committee to consist of one representative each from the Treasury Department, the collector of customs in New York, and the United States Board of Appraisers. I think that this committee should also have the co-operation of the Customs Brokers' Association of New York, or the Merchants' Association of New York.

I have been chairman for 13 years of the committee on customs service and revenue laws of the Merchants' Association of New York, and have devoted a great deal of attention to the operation of the customs administrative act. Seven of the changes which my committee recommended were incorporated in the present tariff act of August 5, 1909.

I am engaged in the customhouse brokerage business in New York, and the firm of which I am the senior partner is universally recognized as one of the leaders among the customs brokers of this country. I am in daily touch with the administration of the law and feel that I am competent to say what I do in this connection.

I am the editor and publisher of the United States Customs Tariff, arranged alphabetically. This publication has been issued by my firm for over 30 years and is recognized as the standard work of its kind throughout the world. It is exclusively used by the Treasury Department for distribution to the United States consuls and other Government officials.

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It will give me much pleasure to cooperate and assist the committee in any way that I can. The interests of the Government are to me of equal importance to those of the importing merchants.

Yours, faithfully,

THOMAS H. DOWNING,
Chairman Committee on Customs Service and Revenue Laws.

BRIEF SUBMITTED BY KERN COMMERCIAL CO., NEW YORK, N. Y.

NEW YORK, January 30, 1913.

The COMMITTEE ON WAYS AND MEANS,
Washington, D. C.

ADMINISTRATIVE FEATURES, SECTION 28, SUBSECTION 7.

In justice to the importers, this section should contain a provision permitting an importer who has protested against an advanced valuation which has incurred a penalty, to enter subsequent shipments of the same material at what he considers the correct market value, pending the decision in the original case, without incurring the penalty of an additional duty of 1 per cent of the total appraised value thereof for each 1 per cent that such appraised value exceeds the value declared in the entry. He will, however, pay on each invoice the duty on the advanced valuation, under protest.

The working of the present rules is very often exceedingly unfair to an importer. He may, in perfectly good faith, enter an article at what he considers the market price, be raised by the appraiser, and pending investigation to determine the correct market price, he has penalties to pay on all subsequent shipments if he enters them at his valuation. It is often the case that an importer is perfectly justified in his contention that the appraiser's valuation is excessive, but while he may be right in his valuation, fearing that his case will not be sufficiently strong and that his shipments will be subjected to a penalty of 1 per cent for each 1 per cent of additional value assessed, he, rather than risk this, will enter subsequent shipments pending decision of the protest, at the appraiser's valuation, and in this way pay duties on a much higher valuation than is necessary or just.

We can cite a recent experience of our own, where a certain material which we had been importing declined in price to the extent of over 30 per cent. The entry was made at an advance over the invoice value of 10 per cent, but the Government, having data of an old investigation on hand, maintained the old market price at this time. Our evidence of the home market value was not of sufficient strength to justify decision in our favor by the general board, and subsequently there have been entered thousands of dollars worth of material at a valuation at least one-third higher than it should have justly been. After some months we have been able to obtain sufficient proof to uphold our original valuation, but in the meantime we have been paying a duty of 45 per cent on a value one-third in excess of cost. Had a provision such as we now suggest been incorporated in the tariff act, these shipments would have been entered at the proper market value, and if advanced, additional duty paid under protest.

As the appraisers of the port of New York can testify, the majority of importers are honest and have no intention to defraud the Government. The question of home market value is a most difficult one to decide; the importers generally do not know of any other prices, but what are given to them by the firm from whom they purchase. Usually the business is done on a cable basis, and when one has an order to place he does so at the lowest possible price, is not in a position to investigate in the European market as to whether the price that he is paying is the same as that which the local wholesaler pays. We have time and again attempted to obtain expression from the appraisers on the market value of material, but have been informed that it is against the regulations to give such information. The importer has to take his chance and enter at what he honestly believes is the correct value. Penalties in such cases are manifestly unjust.

We trust you will give the matter the consideration which it deserves, and are,

Yours, very respectfully,

KERN COMMERCIAL CO.,
HENRY KERN, *Vice President.*

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STATEMENT BY S. M. HOHL, NEW YORK, N. Y.

NEW YORK, January 31, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman of the Committee on Ways and Means, Washington, D. C.

SIR: The administrative part of the present tariff imposes considerable hardship on importers in such cases where a dispute arises regarding market value between the importer and the appraiser. There are instances where the appraiser claims that the market value is higher than the goods are invoiced, and the importer, rather than have the following shipments delayed, has advanced the price to appraiser's figure before entering invoice. This incurs additional duty to the importer which is not refunded under the present law, although the importer's original value may have been sustained later on upon reappraisement by the higher authority. It would therefore look only fair that the Government refund such duties that the importer has paid on the increased value "under duress."

In connection with this practice by the customhouse authorities, importers have been trying to withhold goods from entering until the market value of the first shipment under dispute has been decided upon, and it was learned that the collector would not permit part of an arriving shipment entered and let the other part go on general order. The present law provides that the entire shipment must be entered or sent on general order, and a provision seems to be advisable that part of an incoming shipment can be entered for consumption or for bond and the balance be permitted to go on general order and treated as not having arrived in the United States, especially in such cases where market values are in dispute.

Respectfully submitted.

S. M. HOHL.

I am inclosing a letter addressed to the Hon. Franklin MacVeagh, Secretary of the Treasury, dated May 8, 1911, through which a reply was received, through the collector of customs in New York, that no relief could be granted according to law.

[Inclosure.]

NEW YORK, May 8, 1911.

HON. FRANKLIN MACVEAGH,

Secretary of the Treasury, Washington, D. C.

DEAR SIR: I applied on Saturday, May 6, at the collector's office, where I met Mr. Stewart, deputy collector, in regard to a shipment of gloves which is on steamship *Prinz Friederich Wilhelm*, due to-day. The stevedore in question was unable to give relief in the matter stated to him and I therefore take the liberty of putting same before you, believing that it is not the intention of the Government to inflict hardship upon honest merchants, while there are several ways of avoiding controversy and friction without depriving the Government of just duties.

The appraiser of this port has advanced a shipment of gloves in case marked "S. M. H. No. 5547," call No. 328-200 dozen, from 3.90 marks (invoice value) to 4.50 marks. We have protested against this advance and the reappraisement will no doubt take place in due course. In the meantime, I have some more goods of the same description coming in. One case marked "S. M. H. No. 5564" is on steamship *Prinz Friederich Wilhelm*, as stated above, with five other cases on the same bill of lading, and it now seems that I am forced (1) to raise the invoice value of these goods from 3.90 marks to 4.50 marks, without having the difference of duty refunded should later decision by the proper authorities not confirm the appraiser's arbitrary value of 4.50 marks; (2) to let the entire shipment of six cases go in general order, which would deprive me of the goods in five cases of which we are much in need for immediate consumption, while the sixth case, the market value of which is under dispute, contains winter goods, and of which we are not in immediate need.

Your reply may come too late to be of avail for goods on steamship *Prinz Friederich Wilhelm*, due to-day, but it can be applied to shipments arriving on the following steamer, and no doubt it would be considered a great service rendered to the business community at large having dealings with the customhouse, if your honor will bring about a ruling whereby (1) merchants could enter part of a shipment and let balance go in general order in cases where controversies of market value exist, such as the prevailing one; (2) that the Treasury permit merchants to enter under protest values

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marked up under stress and refund the difference between the appraisers' arbitrary price and the price later to be determined upon in the reappraisement.

Trusting that you will give this matter your early attention, I remain,

Yours, very truly,

S. M. HOHL.

PROPOSED AMENDMENTS TO SECTION 28.

Provided, That whenever any merchandise is imported and there exists no actual market value or wholesale price as defined in subsection 3, inspection of the said merchandise shall be permitted before making entry thereof; and there shall be collected upon the appraised value of such imported merchandise only the regular duties fixed under the various paragraphs of this act, unless the entry is presumptively fraudulent as herein defined.

FRANCIS E. HAMILTON,
Counsel, 32 Broadway, New York.

W. STURSBURG, SCHELL & CO.,
New York, January 2, 1913.

The COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.

GENTLEMEN: I would respectfully suggest the following changes in the administrative sections of the present tariff law, viz:

Section 7. That additional duties be levied in cases where the appraised value exceeds the declared value by 5 per cent or more instead of 1 per cent as at present.

Section 11. To strike out entirely the last half of this section, which authorizes the appraiser to base the appraised value on the selling price in the United States.

This is manifestly unfair, as it practically dictates the selling price and is particularly so in the case of fancy articles. It also limits the commission to be paid to 6 per cent.

Formerly the examiners used to appraise the value of the merchandise, being helped in their decisions by comparisons with competing goods, and in that way putting all importers on the same basis, but now the examiner obtains from the importer the selling price and making the deductions as prescribed in this section arrives at the invoice value, which may or may not be foreign market value. Provision should also be made for the refund of any additional duties paid where importers have added to their invoices to make market value, in order to secure goods that have to be delivered at certain periods, in case the importer is upheld in the final reappraisement.

Respectfully submitted.

W. A. SCHNEIDER.

BRIEF REGARDING SUBSECTIONS 7, 11, 13, AND 25.

NEW YORK, January 29, 1913.

HON. OSCAR W. UNDERWOOD,
*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

DEAR SIR: Herewith I hand you suggestions as to changes in sections 7, 11, 13, and 25 of the administrative bill, which embodies the ideas of the importers of earthenware and china in New York.

Yours, very truly,

EDWD. F. ANDERSON, *Chairman.*

[Inclosure.]

SECTION 7.—The changes suggested in this paragraph can not fail to appeal to the fairness of Congress. There are thousands of cases in which advances have to be made to the invoice and entered value of merchandise to conform to the law, which, by establishing a uniform wholesale value in the same country of exportation for identical goods, permits no one importer to pay less duty to the United States than another. Such advances, if attributable to exceptional advantages enjoyed by importers and the undervaluation resulting therefrom is free from the taint of fraud, should not impose upon the person deriving such legitimate advantage the enormous penalty prescribed

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as a punishment for undervaluation, thus placing many reputable firms on the same plane with common malefactors. The higher the standing of the importing firm the more anxious is the foreign seller to secure its custom. As an inducement to procure its orders, reductions from regular prices are made. The importer in most cases having no knowledge of what his competitors paid for similar goods, all they can know is that the purchase was made in good faith and that the price actually paid for the goods was the price at which they were invoiced and entered. It is common knowledge that the practice is general for salesmen to offer as a bait certain items of merchandise at a valuation far below their regular selling price. It follows that importers are not aware of the special advantage they enjoy with regard to such items. The appraiser, however, whose duty it is to compare the invoice prices of the importers in the cases suggested, finds that as to particular items the invoice value is less than that paid for similar goods by other importers, and he is compelled to add to make market value, notwithstanding the fact that other items may be correspondingly above market value. The general appraisers, if appeal is taken, subpoena other importers, who confirm the correctness of the appraiser's advance. That officer's action is consequently affirmed, and the importer is compelled to pay not only the same amount of duty as his competitors, but a heavy penalty in addition for a technical undervaluation involved in an unusual and honest transaction. The importers may be persons of sterling integrity, having unusual business qualifications, and yet be powerless to guess just which one of the numerous values the local appraiser will adopt as representing market value. Anxious to comply with the law's requirements, the examiner or local appraiser is asked for information on this point, but under instructions from the Secretary of the Treasury those officers are forbidden to give importers the desired information, and they, having no other guide, enter their goods at the price actually paid therefor. If their entry is below the value fixed by the local appraiser, they are branded as undervaluers and pay a heavy penalty for guessing wrong.

We think those importers who are actuated by dishonest motives should be differentiated from those whose business rectitude is unimpeached. It is in the interest of honest importers that those guilty of wrongdoing should be punished, and we command the imposition of additional duties on the importation of merchandise undervalued with fraudulent intent, but when the undervaluation is free from such taint and is due to legitimate trade conditions, there should be some tribunal vested with power to relieve honest importers from the payment of penalties under the name of additional duties, thus removing the stigma that attaches to them as intentional violators of the law, when such is not the fact.

PROPOSED AMENDMENT.

SEC. 7. That the owner, consignee, or agent of any imported merchandise may, at the time when he shall make and verify his written entry of such merchandise, but not afterwards, make such addition in the entry to or such deduction from the cost or value given in the invoice or pro forma invoice or statement in form of an invoice, which he shall produce with his entry, as in his opinion may raise or lower the same to the actual market value or wholesale price of such merchandise at the time of exportation to the United States, in the principal markets of the country from which the same has been imported; and the collector within whose district any merchandise may be imported or entered, whether the same has been actually purchased or procured otherwise than by purchase, shall cause the actual market value or wholesale price of such merchandise to be appraised; and if the appraised value of any article of imported merchandise subject to an ad valorem duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the value declared in the entry, there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, an additional duty of one per centum of the total appraised value thereof for each one per centum that such appraised value exceeds the value declared in the entry: *Provided*, That the additional duties shall only apply to the particular article or articles in each invoice that are so undervalued and shall not be imposed upon any article upon which the amount of duty imposed by law on account of the appraised value does not exceed the amount of duty that would be imposed if the appraised value did not exceed the entered value, and shall be limited to seventy-five per centum of the appraised value of such article or articles. Such additional duties shall not be construed to be penal, and shall not be remitted nor payment thereof in any way avoided except in cases arising from a manifest clerical error, or unless an appeal taken in accordance with section thirteen if this act shall have been filed and the general appraiser reappraising the merchandise and from whose de-

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cision no appeal shall have been taken, or in the event of an appeal from the general appraiser's decision, at least two members of the Board of General Appraisers before whom the case came for final decision touching the value of the merchandise, shall in writing inform the collector that, in his or their opinion, the undervaluation was due to usual conditions arising in the regular course of business and that no fraud or undervaluation designed to evade the payment of lawful duty or any part thereof was intended; in which case duty shall be assessed upon the value of the merchandise established by final appraisement, but no additional duty shall be imposed in such cases. In no other case shall additional duties be refunded on any account, nor shall they under any circumstance be refunded on exportation of the merchandise, and in no case shall they be subject to the benefit of drawback: *Provided*, That if the appraised value of any merchandise shall exceed the value declared in the entry by more than seventy-five per centum, except when arising from a manifest clerical error, such entry shall be held to be presumptively fraudulent, and the collector of customs shall seize such merchandise and proceed as in case of forfeiture for violation of the customs laws, and in any legal proceeding other than a criminal prosecution that may result from such seizure, the undervaluation as shown by the appraisal shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he shall rebut such presumption of fraudulent intent by sufficient evidence. The forfeiture provided for in this section shall apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles in each invoice which are undervalued: *Provided further*, That all additional duties, penalties, or forfeitures applicable to merchandise entered by a duly certified invoice shall be alike applicable to merchandise entered by a pro forma invoice or statement in the form of an invoice, and no forfeiture or disability of any kind incurred under the provisions of this section shall be remitted or mitigated by the Secretary of the Treasury. The duty shall not, however, be assessed in any case upon an amount less than the entered value.

SECTION 11.—The difference between 8 per cent and 50 per cent, which is left discretionary with the appraiser to add for profit, is so great that importers of goods appraised on the cost of production are powerless to guard against advance and penalties unless in every instance they at the time of making entry add the maximum amount of 50 per cent for profit, and as gross favoritism is likely to occur to the serious detriment of the legitimate business of honest importers, and inasmuch as duty attaches to the profit as well as the goods, we think an average profit of 10 per cent is sufficient. At any rate, there should be a fixed amount for profit so that importers can know precisely what value they can enter the goods and be safe and not be left at the mercy of the appraiser, whose whim might dictate 50 per cent profit on one importer's goods and 8 per cent for those of a competitor, conditions that are so manifestly unfair that they should be corrected.

The wholesale selling price in the United States should not be left discretionary with the appraiser to take the highest price an importer got for his goods in exceptional cases delivered at a distant point, but the average, or prevailing, price he received therefor at the original port of entry would seem to be just and equitable.

Foreign manufacturers are compelled to add a fixed amount of 10 per cent for general expenses, and the allowance for deduction should be a corresponding amount. If foreign manufacturers are limited to a profit of 10 per cent, importers should be allowed to deduct a like amount from sales made in this country to make conditions equal. As the law stands now, the manufacturer in estimating the cost of his goods must add 10 per cent for general expenses and from 8 per cent to 50 per cent for profit, while the importer is allowed to deduct only 8 per cent for the combined items, which is manifestly unjust.

PROPOSED AMENDMENT.

SEC. 11. That when the actual market value, as defined by law, of any article of imported merchandise wholly or partly manufactured and subject to an ad valorem duty, or to duty based in whole or in part on value, can not be ascertained in the usual manner (or by comparing such merchandise with similar merchandise) to the satisfaction of the appraising officer, such officer shall use all available means in his power to ascertain the cost of production of such merchandise at the time of exportation to the United States and at the place of manufacture, such cost of production to include the cost of materials and of fabrication, and all general expenses to be estimated at not less than ten per centum, covering each and every outlay of whatsoever nature incident to such production, together with the expense of preparing and putting up such merchandise ready for shipment, and an addition of ten per centum upon the total cost as thus ascertained; and in no case shall such merchandise be

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appraised upon original appraisal or reappraisal at less than the total cost of production as thus ascertained. The actual market value or wholesale price, as defined by law, of any imported merchandise which is consigned for sale in the United States, and which is not actually sold or freely offered for sale in usual wholesale quantities in the open market of the country of exportation to all purchasers, and which is not comparable in value with similar goods sold in wholesale quantities in the country of exportation, shall not in any case be appraised at less than the prevailing wholesale price at which such or similar imported merchandise is actually sold or freely offered for sale in usual wholesale quantities at the original port of entry of the United States in the open market, due allowance by deduction being made for estimated duties thereon, cost of transportation, insurance, and other necessary expenses from the place of shipment to the place of delivery, a commission of six per centum, if any has been paid or contracted to be paid, and an allowance of ten per centum for general expenses.

SECTION 13.—The local appraiser having by all reasonable ways and means determined the actual market value of any imported merchandise and rendered his decision with respect thereto, the importer, owner, agent, or consignee of such merchandise if dissatisfied with such appraisement is allowed 10 days in which to file an appeal. The collector, if he deems the appraisement too low, is granted 60 days in which to order a reappraisal by a general appraiser. There is no reason for such an excessive delay, and in many cases it operates as an actual denial of justice to importers. In accordance with the Revised Statutes the importer can have delivered to him all his merchandise except the requisite number of packages retained in the public stores for purposes of appraisement, upon giving bond to return to the collector on demand all or any part of such importation unopened, within 10 days from the date of its delivery to him. After the expiration of the 10-day period, if the local appraiser has reported the invoice or entered value of the merchandise correct, the bond is canceled and all of the goods, including the public store packages, are turned over to the importer without conditions. The latter thereupon disposes of the same to his customers on the basis of the duty paid plus landed cost and a reasonable profit. Fifty days, say, after the merchandise has passed from the control of the importer and he has no longer any means of recouping the loss if additional duties are levied, or to furnish evidence of the foreign market value of the goods (which requires an examination thereof), the collector may order a reappraisal. It is manifestly impossible in such cases for importers to defend their rights, and a statute that places them in such a position is unjust. It must not be overlooked that foreign goods brought into the United States are adapted to the season coincident with the time of importation and unless quick sales and immediate deliveries are possible sales can not be made or cancellations occur, and the goods remain on the hands of the importers, entailing upon them heavy pecuniary loss. It follows that before the expiration of 60 days imported merchandise must be sold and delivered, otherwise the business for that season will be lost. The collector is given but 10 days in which to appeal from the decision of general appraisers, and there is no reason why he should not be limited to the same reasonable time to determine whether or not the value placed upon the merchandise by the local appraiser is too low, especially as the appraiser must inform him immediately of the result of every appraisement. The right of collectors to order a reappraisal of merchandise any time within 60 days after the decision of the local appraiser is not only unjust but results in an irreconcilable repugnancy between the several statutes regulating appraisements. It has been judicially settled by decisions of the Federal courts, including the Court of Customs Appeals, that a legal appraisement can not be held in the absence of the imported merchandise. Inasmuch, as a rule, samples are not retained in cases where the local appraiser makes no advance on the entered value and the merchandise has all been delivered to the importer within 10 days after the local appraiser's decision, and passes out of his possession almost immediately, it follows that long before the 60 days expire no legal reappraisal of the merchandise could be made.

In justice and fairness to importers, the time in which collectors may appeal from the local appraiser's decision as to value to a general appraiser should be changed from 60 to 10 days. The time in which either of the parties litigant should be allowed to appeal from the decision of the general appraiser should be made the same, both the Government and the importers have investigated the subject and produced their evidence before the single general appraiser, and five days would be abundant time for either side to perfect an appeal, if dissatisfied with his decision.

The 10 days allowed collectors in which to appeal from the general appraiser's decisions should be changed to 5, thus granting the same terms to both parties.

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PROPOSED AMENDMENT.

SEC. 13. That the appraiser shall revise and correct the reports of the assistant appraisers as he may judge proper, and the appraiser, or, at ports where there is no appraiser, the person acting as such, shall report to the collector his decision as to the value of the merchandise appraised. At ports where there is no appraiser the certificate of the customs officer to whom is committed the estimating and collection of duties, of the dutiable value of any merchandise required to be appraised, shall be deemed and taken to be the appraisement of such merchandise. If the collector shall deem the appraisement of any imported merchandise too low, he may, within ten days thereafter, appeal to reappraisal, which shall be made by one of the general appraisers, or if the importer, owner, agent, or consignee of such merchandise shall be dissatisfied with the appraisement thereof, and shall have complied with the requirements of law with respect to the entry and appraisement of merchandise, he may, within ten days thereafter give notice to the collector, in writing, of such dissatisfaction. The decision of the general appraiser in cases of reappraisal shall be final and conclusive as to the dutiable value of such merchandise against all parties interested therein, unless the importer, owner, consignee, or agent of the merchandise shall be dissatisfied with such decision, and shall, within five days thereafter, give notice to the collector, in writing, of such dissatisfaction, or unless the collector shall deem the reappraisal of the merchandise too low, and shall within five days thereafter appeal to re-appraisal; in either case the collector shall transmit the invoice and all the papers appertaining thereto to the board of nine general appraisers, to be by rule thereof duly assigned for determination. In such cases the general appraiser and boards of general appraisers shall proceed by all reasonable ways and means in their power to ascertain, estimate, and determine the dutiable value of the imported merchandise, and in so doing may exercise both judicial and inquisitorial functions. In such cases hearings may, in the discretion of the general appraiser or Board of General Appraisers before whom the case is pending, be open and in the presence of the importer or his attorney and any duly authorized representative of the Government, who may in like discretion examine and cross-examine all witnesses produced. The decision of the appraiser, or the person acting as such (in case where no objection is made thereto, either by the collector or by the importer, owner, consignee, or agent) or the single general appraiser, in case of no appeal, or of the board of three general appraisers, in all reappraisal cases, shall be final and conclusive against all parties and shall not be subject to review in any manner for any cause in any tribunal or court, and the collector or the person acting as such shall ascertain, fix, and liquidate the rate and amount of the duties to be paid on such merchandise, and the dutiable costs and charges thereon, according to law.

SECTION 25.—The suggested amendment to section 25 is in the interest of good government and is of vital importance to importing interests. Indeed, the standing of importers among their fellow men and the preservation of their business existence is more or less dependent upon the adoption of the amendment here proposed.

The payment of an enormous sum to a Government officer in a recent case of detected fraud has incited a horde of petty officers to exercise inquisitorial powers, not only unwarranted by their official positions, but that are actually illegal, to a degree that has caused the United States courts to administer to them a scathing rebuke.

The plan most favored in the crusades against importers has been to announce in the daily papers that as to a certain line of imported merchandise frauds amounting to millions of dollars have been unearthed. This mysterious announcement—no names having been mentioned—places under the ban of suspicion every importer of the particular line of goods referred to, whether the importer be a merchant prince or one of minor importance struggling to support his family. A panic among those engaged in the trade mentioned ensues that affects the honest merchant who perhaps for half a century has led an exemplary business life, but who fears his good name may be tarnished by the publicity of a prosecution for alleged fraud, innocent though he may be. Having created a reign of terror, the next step of these petty Government officers is to make a raid on one or more of the most prominent firms affected and demand their books and papers, whereby such firms may convict themselves of some indefinite crime—an illegal demand that is enforced by threats of dire results that will follow a refusal to comply therewith.

Such is the system that has sprung into life during the present administration. No Government officer who seeks and accepts a position at a stipulated salary is entitled to extra compensation for doing that which under his oath of office he is obligated to do. Nor should any person clothed with authority of the United States, and incited by the hope and expectation of an informer's moiety, be permitted to

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raid business houses, demand their private books and papers—not with a view to procuring information relative to some particular infraction of the revenue laws, but on a fishing excursion hoping that something of an incriminating nature may be discovered. Nor should any Government officer, as a part of coercive measures, with safety to himself, be permitted to defame the character of any importer by public accusation, innuendoes, or suggestive hints. For the information of appraising officers at all ports, certain publications should be made by the direction of and under the rules prescribed by the general appraisers, to whom such matters can safely be intrusted as is the case under the administrative act now in force. If it is necessary to have the books and papers of importers in order to acquire information pertaining to reappraisement proceedings pending, general appraisers should be empowered to procure the same in a legal and legitimate manner.

This amendment will accomplish such results and is of great importance to importers. It should therefore be enacted into law.

PROPOSED AMENDMENT.

SEC. 25. That any person who shall give, or offer to give, or promise to give, any money or thing of value, directly or indirectly, to any officer or employee of the United States in consideration of or for any act or omission contrary to law in connection with or pertaining to the importation, appraisement, entry, examination, or inspection of goods, wares, or merchandise, including herein any baggage or of the liquidation of the entry thereof, or shall by threats or demands or promises of any character attempt to improperly influence or control any such officer or employee of the United States as to the performance of his official duties shall, on conviction thereof, be fined not exceeding \$2,000, or be imprisoned at hard labor not more than one year, or both, in the discretion of the court; and evidence of such giving, or offering, or promising to give, satisfactory to the court in which such trial is had, shall be regarded as prima facie evidence that such giving or offering or promising was contrary to law, and shall put upon the accused the burden of proving that such act was innocent and not done with an unlawful intention. No person in the employment of the Government shall directly or indirectly, in addition to their regular salary or fixed compensation, receive or share in any moiety, reward of compensation of any kind, for information tending to prove, or that may have established, under valuation of imported merchandise or fraud in connection with the importation of such merchandise, nor shall any person, except by due process of law or in cases actually pending on appraisement or reappraisement and by or at the request in writing of a general appraiser, Board of General Appraisers, or the local appraiser, or person acting as such where there is no appraiser, and in no other case, demand or procure by any coercive means whatsoever, the books, accounts, memoranda, or papers of any individual, firm, or corporation engaged in importing merchandise; nor shall any such person publish or circulate, or procure the publication or circulation of, any rumor, statement, or allegation tending to impair the standing of business integrity of any individual, firm, or corporation engaged in the importation of merchandise, except under rules prescribed by the Board of General Appraisers. Any such person who violates any of the foregoing provisions shall be punished by a fine of not more than \$500; shall forfeit his office or place and shall thereafter be forever disqualified from holding any office of honor, trust, or profit under the United States: *Provided, however,* That none of the foregoing provisions shall be applicable to such persons when engaged in the prevention of smuggling or the detection and conviction of smugglers.

SUBSECTION 11.

BRIEF SUBMITTED BY FREDK. VIETOR & ACHELIS, NEW YORK.

NEW YORK, February 6, 1913.

HON. OSCAR W. UNDERWOOD,
Chairman Ways and Means Committee,
Washington, D. C.

SIR: While the house of Vietor & Achelis is largely engaged in handling domestic textile goods it also represents a number of foreign accounts, and we therefore take the liberty of addressing you in regard to subsection 11 of section 28 of the act of 1909, which relates to the dutiable value of imported merchandise consigned for sale in the United States and "not actually sold or freely offered for sale in usual wholesale quantities in the open market in the country of exportation to all purchasers."

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After providing that when the actual market value can not be ascertained to the satisfaction of the appraising officer, the cost of production, including profit and expenses, may be used as a basis for the dutiable value, the section then provides that "the market value or wholesale price * * * shall not in any case be appraised at less than the wholesale price at which such or similar imported merchandise is actually sold or freely offered for sale in usual wholesale quantities in the United States, due allowance for deduction being made for estimated duties thereon, cost of transportation, insurance, and other necessary expenses from the place of shipment to the place of delivery, and a commission not exceeding 6 per cent, if any has been paid or contracted to be paid on consigned goods, or a reasonable allowance for general expenses and profits (not to exceed 8 per cent) on purchased goods."

This provision has been a source of great abuse and unnecessary trouble and expense to importers of consigned goods. In fact, it is not too much to say that it has frequently been invoked by the appraising officers even where sales are made abroad for home consumption.

It is seldom that two houses in this country will sell an article, such, for instance, as dress goods, at the same price, even in the rare instances where the goods are identical in quality. It is also very seldom that a merchant learns the selling price of his competitor. You can readily understand, even where the goods cost the same to land, one dealer may be able to sell at a price higher than another, and that should the demand rise or fall the selling price would naturally rise or fall, regardless of the price at which they were bought or produced.

Under the power given the appraiser by this section he has demanded of importers the selling prices of their goods, and has then been using these selling prices to fix the value upon which they must pay duty, so that although goods may have been honestly entered and this fact not disputed, importers have been compelled to pay not only higher duties, but penalties on arbitrary prices fixed by the appraiser amounting in effect to a duty upon the profit in this country.

For instance, an article may be worth \$1 abroad, and with duty, shipping expenses, insurance, and commission added, be sold in this country for, say, \$2. Under the law on consigned goods the commission can not exceed 6 per cent, and there is no provision for a deduction of selling expenses, which of course, must be added before the selling price is reached. A deduction of the items mentioned in the section would, of course, result in the foreign price of \$1 provided the commission does not exceed 6 per cent, and provided no selling expenses have been included. But obviously there are some selling expenses, so that when the goods are sold for \$2, including the selling expenses, and deductions are made excluding the selling expenses, the price arrived at is naturally higher than \$1. The importer is then compelled to pay duty upon the higher price and is penalized under section 7 to the extent of 1 per cent for each per cent that the appraised value exceeds the entered value. This appraised value is then taken as the basis for the next shipment, and if the importer wishes to avoid the penalties he is forced to add on entry. But in order to do business he must naturally raise his selling price in this country to take care of the extra duty; his selling price, therefore, increases and when the appraiser ascertains his new selling price he proceeds to advance the goods again, and the process continues until the importer is forced to give up that particular line.

On purchased goods there is a provision for deduction of "general expenses and profits (not to exceed 8 per cent)." While some members of the Board of General Appraisers have construed this to mean that the 8 per cent refers only to profit and that an additional allowance should be made for the actual selling expenses, others consider that the 8 per cent is to include both. It is unnecessary to point out how absurd it is to assume that goods can be sold with an 8 per cent advance to cover both expenses and profit. Taking, however, the most favorable construction—that is, considering the 8 per cent to apply only to profit—its effect is to preclude any importer of this class of goods from making more than that amount of profit. In other words, his business policy is dictated by the law, and if he does not conform he might as well discontinue. It needs no student of economy to understand that profit depends upon supply and demand; that some goods are frequently sold at a loss, others might be sold at 20 or 30 per cent profit; and yet the average at the end of the year will not show a greater profit for the line than 8 per cent.

It was urged during the last tariff discussion that it would be less difficult for appraising officers to find the selling price of goods in this country than to find the market value abroad. This is not the fact; indeed, it is probably a fact that the great bulk of importations of merchandise are never sold until long after they have come into the

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country, and where the style changes from year to year, it is manifestly impossible to ascertain at the time of importation the price they might bring when sold some time later. A certain pattern might "take" and a very handsome profit be realized; another pattern might fall flat and be sold at a loss.

On the other hand, when goods are sold on the other side, it is a comparatively easy matter for appraising officers to ascertain the general price, and even if they are not directly sold it is seldom that the cost of production can not be obtained. In a case now pending before the Board of Appraisers the actual cost of production of the goods was furnished and the figures were not only verified before the United States consul, but the offer was made to have the books of the manufacturer examined by the Treasury agent abroad. In spite of this the American selling price was used as a basis for the market value.

We therefore earnestly request that this provision be eliminated from the proposed administrative act.

We also desire to direct your attention to the provision in subsection 7, under which the importer is penalized even if his goods are entered at 1 per cent below the dutiable value as finally fixed. We feel safe in saying that, except as to staple goods, where the quotations are published from day to day, there is not an examiner nor a merchant in the country who is able to fix the value of the goods within 10 per cent without comparison with other goods and a knowledge of the cost of production. Even in those infrequent instances where two manufacturers make articles identical in quality, it rarely happens that the cost of production of their goods is the same, and naturally their prices will differ to some slight degree. A purchaser buying the goods in good faith enters them at the price he pays. Manifestly he is almost always in ignorance of what his competitors are paying and can not tell whether he has bought below or above the market. If he pays above the market the law compels him to pay duty upon the price he paid, unless at the time of entry he has learned that the market is lower and deducts. If he enters below the market value his good faith is of no avail, for he must not only pay duty on the appraised value but is fined for each per cent that he is out of the way; and this penalty can not be remitted by anybody except on the ground of manifest clerical error. While we, of course, have no sympathy with intentional undervaluations, we believe that some leeway should be allowed, so that the honest importer will not be mulcted through a slight variation between the price he pays and that paid by his competitor. We also believe it to be a fact that in the vast majority of cases where goods are advanced the good faith of the importer is not questioned, and the advance is due merely to fluctuations in the market, of which he had no information. For this reason we urge your committee to amend section 7 by the insertion of a provision allowing a variation of 10 per cent in price without penalty, and a further provision that any penalty which may be imposed for undervaluation in cases of over 10 per cent advance shall not apply on the first 10 per cent; that is to say, if an article is 10 per cent below the value found by the appraiser no penal duty shall apply, but if it is advanced 11 per cent, 1 per cent shall apply. The importer will, of course, pay his regular duties on the market value fixed by the appraising officers.

We believe that the requests embodied in this letter are just and right, and we have no doubt that careful consideration of them will so convince you.

Respectfully,

FREDK. VIETOR & ACHELIS.

SUBSECTION 12.

BOARD OF GENERAL APPRAISERS.

TREASURY DEPARTMENT,
UNITED STATES CUSTOMS SERVICE,
New York, December 28, 1912.

SIR: In accordance with my conversation with the president of the board, I inclose a copy of a memorandum prepared by the President's committee, stating the points which it has under consideration and on which it desires to receive criticisms from all sources, especially from the members of the board.

May we have the advantage of your suggestions on these particular points, as well as any other points which you may wish to mention?

Perhaps it would be more convenient both to yourselves and to the committee to have your views stated in writing, at least in the first instance.

After consideration of these suggestions, we hope that personal conferences can be arranged at convenient times.

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Reply should be made to me at this address, and if possible before Thursday, January 2.

Very respectfully,

WINFRED T. DENISON, *Chairman.*

HON. S. B. COOPER,
Board of General Appraisers, New York, N. Y.

JANUARY 2, 1913.

DEAR SIR: In compliance with the request contained in your letter of the 28th ultimo, transmitting to me a memorandum from your committee propounding certain interrogatories, I hand you herewith my replies to the several questions.

I may not have sufficiently elaborated my answers so as to make myself clearly intelligible, but I hope they will serve as an index to my views.

There is a matter not mentioned in the queries of the committee that I beg to invite serious attention to, and that is the question of accommodation and facilities that are not furnished the Board of General Appraisers. The officer of the Government whose duty it is to inspect public buildings has reported that the building in which we have our offices, hold sessions, and attend to the public business, is a fire-trap (unsafe and dangerous), and a like report has been made by the fire department of this city. I know that it would very much facilitate the public business and economize in expense if the general appraisers were furnished suitable and convenient offices and trial rooms.

If it is not asking too much of the committee, I would appreciate it as a personal favor (and I believe it a public duty) if your committee will call at the public stores building, and I can show you much better than I can tell you.

Very respectfully,

(Signed) S. B. COOPER.

HON. WINFRED T. DENISON,
Chairman of the President's Committee.

(1) Should the board be continued as an independent or quasi-independent body, or should it be a branch of the Treasury Department?

The board should be an independent judicial body, and should not be subordinate to or controlled by any executive branch of the Government. It is now judicial in its character, functions, and construction, and should be so continued. The best interests of the Government and the citizen will be served by an independent and nonpartisan board.

(2) Should the board be divided into two separate bodies, one to deal with classifications and the other to deal with reappraisements?

No. Experience has shown the weakness and folly of that system, and economy forbids it.

(3) Should a rule of evidence be laid down by law for the proceedings of the board; and if so, should it conform to the rules of evidence in common law cases or to the practical custom of merchants?

In classification cases the rules of evidence as known to the common law and the statutes of the United States should obtain. In reappraisal cases the inquisitorial system and methods of inquiry now provided by law should be continued.

(4) Should the functions of the tea board be transferred to the Department of Agriculture?

I have not a fixed or satisfactory opinion.

(5) Is the clerical work of the board performed with the utmost possible economy?

It is my opinion that some changes could be made in the system that would reduce the amount of clerical work.

(6) Should the board be given the power to impose costs; and what effect, if any, would such a provision have in reducing the quantity of work brought before the board?

Congress alone and not the board should exercise the power to fix court costs. A longer time in which to file protests, and a reasonable fee should be charged importers upon the filing of a protest, but such fee should be refunded if the protest is abandoned or the protestant is successful on the trial of his case. I think such a statute would largely minimize the protests, and thereby lessen the cost and expense to the Government.

(7) Should the board be composed chiefly or exclusively of (a) lawyers, (b) business men, (c) persons trained in the customs service?

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The board should be composed of men learned in the law, preferably ripe and experienced lawyers. Such men by education are competent commercial and business men. Training in the customs service can not make a competent and just judge.

(8) Should the law continue the requirement that the board must be bipartisan?

Yes. All courts should be nonpartisan, and bipartisan appointments is the best method of reaching this end. Revenue laws are based upon two cardinal policies—(1) revenue, (2) protection. These policies become partisan and political, and possibly might affect the decisions of the board if it were not bipartisan.

(9) Are the proceedings before the board conducted with the utmost practicable dispatch?

Yes; I think sometimes too much so for the safety and protection of the rights of the litigants.

(10) Should the board establish a short-cause calendar?

No; it would be impracticable, if not impossible.

(11) Whether a change of the basis of *ad valorem* duties from the foreign market value to the home market value (less the duties, percentage for profit, etc.) would be practicable and whether it would (a) reduce the danger of fraudulent undervaluations; (b) eliminate practical difficulties in obtaining evidence for use in appraisals, etc.; (c) reduce the quantity of work required from the board and the Treasury Department.

I do not think the change of the basis of reappraisal as suggested will be practicable or advantageous to the Government or importer.

If the purpose is to prevent fraudulent undervaluations and lessen the work of the customs officers, it will not accomplish that end. Those disposed to perpetrate fraud upon the Government will always find ways to do so, and problems more perplexing than under the present system would arise.

The present law for ascertaining the foreign market value of imported merchandise is wise and sufficient if diligently and rigidly enforced. The intent and meaning of the law is that imported merchandise shall be entered for duty at its actual market value and wholesale price in the principal markets of the country from whence the same has been imported. The lawful and orderly method to ascertain this fact is as follows:

(1) If the merchandise is bought and sold or freely offered for sale, the witnesses that buy and sell such merchandise can furnish the evidence to accurately determine such market value, and under such circumstances the appraising officers need not find difficulty in fixing the proper value.

(2) If the goods are consigned or produced or manufactured exclusively for the American market, then the appraising officers find much difficulty in ascertaining the market value. In such cases the law provides that the appraising officer shall find the cost of production or manufacture of such merchandise, and thereto add certain charges to make market value, and herein comes the difficulty and opens a fertile field for fraud.

The law provides that when merchandise is consigned for sale by the manufacturer or other person, the consignee shall at the time of the entry of such merchandise present to the collector as a part of such entry a statement, signed by such manufacturer, declaring the cost of production of such merchandise. (See sec. 28, subsec. 8, tariff act of 1909.) This command of the law appears not to have been complied with since I have been a member of the board.

(3) The last method is to find the price at which the goods are sold by the importer or consignee, and from these selling prices to ascertain the wholesale price of the merchandise in the country of its production and manufacture. As the selling price is controlled by so many contingencies, a certain or reasonably certain market value is made difficult to ascertain.

The three methods, collectively, are often used by me in finding market value.

(12) Would it be practicable or advisable to provide for a fixed valuation of staple articles, to be proclaimed by the President or by the Secretary of the Treasury? If so, on what investigation should the proclamation be based?

I doubt its practicability. It would be a substantial substitute of specific for *ad valorem* rates of duty. I do think it advisable to have a commission with added facilities to make investigations and report to customs officers.

(13) In reappraisal cases should a review by a committee under the control of the Treasury Department be substituted for the present review by the single general appraisers, the appeal to a board of three general appraisers being retained as at present?

Under the law and the regulations of the Secretary of the Treasury, imported merchandise must be examined by an expert examiner of the appraiser's stores, and if

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upon such examination the value of the merchandise is advanced above the invoice price, the examiner reports his action to the assistant appraiser, and if the examiner's advance is approved by the assistant appraiser, in like manner, the assistant appraiser reports to the appraiser for his approval or disapproval. So there are three examinations of the merchandise by three different officers (if this is done) before an appeal can be taken for reappraisalment.

These examinations and reviews ought to be sufficient to ascertain the truth and true value from a unilateral inquiry.

I think on an appeal to a single general appraiser the case should be tried fully and completely, and a record made of all the proceedings and an appeal to the Board of General Appraisers should not be a trial de novo, but should be a trial on the record before the general appraiser.

(14) What steps, if any, should be taken in the system of making a review of appraisements, so as to reduce the amount of fraudulent undervaluations?

Vigorous prosecutions for willful fraud, but not for presumptive fraud, as provided by law.

(15) Should an embargo be placed on goods coming from any manufacturer who refuses to open his cost accounts to the Government's inspection?

No. But if the manufacturer refuses such Government inspection he should be required to make an affidavit of the costs of production or manufacture, unless the merchandise is sold in the open market or freely offered for sale.

(16) Should the practice of holding open hearings in reappraisalment cases be encouraged or prohibited?

Open hearings should be encouraged; but witnesses should be placed under the rule, so that proper secrets of competitive merchants should not be divulged.

(17) In reappraisalment cases, should there be a requirement for the filing of the reasons for the decisions of the boards of three general appraisers?

If the issue is a question of fact, no. If it is a question of law, yes.

(18) In classification cases, should a hearing and decision by a single general appraiser be substituted for hearings and decisions by a board of three, the appeal to the Court of Customs Appeals to be retained, as at present?

The trial should be had before a single general appraiser and appeals taken directly from his decisions to the Court of Customs Appeals.

(19) Should a method be provided for a review by the Treasury Department of the decisions of collectors in classification cases before their transfer to the Board of General Appraisers; and if so, what?

I think a review by the Treasury Department of the decisions of the collector is now amply provided for by law; and if not, the Secretary of the Treasury has ample power under the law to make regulations controlling collectors in such matters.

(20) What steps, if any, should be taken to reduce the quantity of protests, and especially speculative protests? For example, should a protest fee be required?

A fee deposited on filing protests. More time given within which to file protests, so that investigation could be made to ascertain what the protest should cover, and the protests made more definite.

(21) Should an importer have the right to protest on the ground that the duties levied were too low?

Yes. The question to be determined is the proper classification of the merchandise for dutiable purposes.

Very respectfully,

(Signed)

S. B. COOPER,

General Appraiser.

NEW YORK, January 2, 1913.

DEPARTMENT OF JUSTICE,

Washington, January 4, 1913.

DEAR SIR: On behalf of the President's committee I beg to acknowledge, with much appreciation, your favor of January 2, transmitting your views on the questions covered by the committee's memorandum. These views will receive the careful consideration of the committee.

Very respectfully,

WINFRED T. DENISON,

Assistant Attorney General, Chairman.

Hon. S. B. COOPER,
General Appraiser, New York City.

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TESTIMONY OF WILLIAM BURGESS.

The witness was duly sworn by the chairman.

Mr. BURGESS. Mr. Chairman and gentlemen, before I start with the matters I wanted to particularly speak about, I would like to make an amendment to Mr. Gerry's suggestion that as long as the representatives of the Treasury Department and others, particularly the Merchants' Association of New York, which is purely an importers' association, be asked to speak before your committee, that some representative of the domestic interests also be invited to meet with them.

Mr. FORDNEY. Especially the potters' association. I suggest that in all sincerity. I know you are familiar with all of those great questions that Mr. Gerry discussed, and if the committee is going to hear him, I would suggest that a representative of the potters' association be included in that hearing.

The CHAIRMAN. If the committee were to take that up and have further hearings on it, of course they would give full opportunity for both sides to be heard and submit their views. I am rather inclined to think this entire customs act it would be well to thrash out generally, but whether it is a wise time to do it now or not I do not know.

Mr. BURGESS. I have been in close touch with this administrative feature of the law for some years, being forced to that position on account of finding ourselves as an industry—the pottery industry—up against a condition that we did not understand until we commenced to investigate, namely, that of undervaluation of the goods coming into this country.

We have a duty of 55 and 60 per cent, and yet we found that certain classes of goods could not be sold in competition with the foreign goods. Goods that we were selling at 60 cents a dozen the importers from the Continent are selling at 50 cents a dozen. The English goods of the same type are being sold at 62 cents. An investigation was started which resulted in finding that the goods in question were undervalued to the extent of almost 60 per cent. This took four years before we could accomplish this result. Mr. Gerry mentioned the fact that the goods were sold at 19 cents a dozen on account of large contracts, and the real value of the same goods we found to be 26 cents on the other side—the same market; but he attributed the whole discrepancy to the fact of the large contracts. We found that there were other reasons for the discrepancy. The first advance made by the Government was 10 per cent. The following year it was 19 per cent, which practically shut out those goods from being sold at that price. At the end of four years the final advance was upwards of 90 per cent.

I want particularly to call attention to a question that came up in the hearings on Schedule B in connection with packages. The importers pleaded very earnestly for packages to be eliminated from section 18 of the administrative law. We oppose it because of the absolute necessity of opposing it. It is a universal custom in all parts of the world to charge for packages in selling pottery ware at wholesale. In England they charge a very high price for their packages. On the

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Continent not so high proportionately, and in this country we charge less in proportion to the value of the goods. Packages are absolutely necessary to the transportation of the goods. The goods can not be sold unless they are packed. They are an essential part of the cost of the goods, just as much so as the molds and saggars or fire cases in which they are burnt are part of the cost. These goods must be packed. The labor must enter into the cost of packing and making of packages. The same proportion of difference of cost is in the making of packages as there is in the making of ware. The profits that accrue from the package end of the business in foreign countries is quite an item. One of the English manufacturers told me that his package account netted him on an average of \$10,000 a year. They charge about 18s. 6d., over \$4.50, for their package, their crate. It is an exorbitant price I admit, but if they did not charge that they would charge just that much more for their ware. If there is a purchase of \$100 it makes little difference whether that \$100 is billed in one lump or whether \$90 of it is billed for the ware and \$10 for the package, the goods cost the purchaser just as much money.

Mr. Kolb gave, in his brief, a few samples for other purposes, which I use as illustrations. He gives the value of 60 dozen decorated cream pitchers as being worth 23.8 cents per dozen, less than 2 cents apiece. Nicely decorated cream pitchers, making 60 dozen cost \$14.28. The package in which they are packed cost \$2.40, or the total value of 60 dozen to the dealer is \$16.68. He illustrates again a package of cuspidor spittoons, the ordinary spittoon that you are all familiar with, 12 dozen to a package, at \$1.01 a dozen, or 8½ cents apiece decorated. These goods when packed amount to \$14.04, \$1.92 being charged for the package. Another package of cuspidors being worth 6½ cents apiece, or 77.3 cents a dozen. The package containing 18 dozen amounts to \$13.91, plus \$2.40 for the package, or \$16.31. It is hardly conceivable that these goods would be purchased at any such price unless the package was charged for.

A few years ago in this country glass chimneys were sold at less than cost. The manufacturers were in great competition and they told me that the only profit they could possibly get out of their business was whatever profit they made out of the package, the barrels, that they charged 35 cents for, and that was the entire profit that was in the goods. The wholesaler always charges that price when he sells his goods.

Mr. Pitcairn, who was here speaking of how he had to give his package to the drayman, very seldom opens any package, but passes it on to his customer and charges that customer with that package plus the duty on the package the same as he paid, and, as he said, retains for himself 2½ to 5 per cent commission for doing so. In the event of opening that package and repacking, he adds considerably more than the difference in cost of the package; so that in all cases where the goods are sold at wholesale in this country the package is always charged for and is a part of the cost.

If, on the other hand, you buy a dinner set or any article of that sort in a department store, they do not make any charge for the package, but charge a proportionately higher price for the goods. So we

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see no reason for deducting the package in assessing the duty any more than we would find the value of the case in which the ware is fired and deducting that from the cost.

We hope that there will be no change in that feature of section 18. A matter uppermost in the mind of the committee is the question of ad valorem duties. I think everyone will admit that this is the just method of levying a duty, but on the other hand it is the hardest method of applying justly, because of the very great difficulty in ascertaining what is the true value of the goods on which the duty is to be levied. It is a great incentive for crookedness and crooked dealing. The importer is interested in the value of the goods and keeping that value as low as possible, so as to pay as little duty as possible. It is therefore necessary that if an ad valorem basis is to be used the greatest possible safeguard should be thrown around that method of appraising and valuing goods and administering the law.

A few suggestions I would make in connection with the matter are: First, the publicity of the values at which the goods are imported. At the present time the Government has a peculiar way of hiding certain things, and under other circumstances revealing those same facts. When the goods come into this country they are invoiced at a certain price. That invoice is seen only by the examiner and officials immediately in charge. He and the importer have the possibility of getting their heads together and adjusting those values. If the examiner is inclined to not be absolutely straight, there is an opening there.

When a case is brought before the Board of General Appraisers it is heard sometimes in secret and sometimes publicly. When the decision is arrived at everything is published, with the exception of the name of the importer. The name of the shipper, the class of goods, the kind of goods, mark and number and the value of the invoice, and if the advance has been sustained it is so noted; if it has not been sustained it is so noted.

A short time ago, in 1908, when the question of undervaluation of French china was brought up, a list was prepared to indicate the market value at which the china goods should pay duty. The present law requires that the duty shall be assessed at the market value of the goods in the country of production as sold to all comers in a wholesale way. That implies that the market value is the open market value, yet nobody can go there and find that out. I have been there five or six times at the request of the Government, to assist in finding that out, and it is the most difficult thing in the world to do, because we have no power under the present law to compel the production of facts.

The CHAIRMAN. We could not pass a law that would compel the production of facts in a foreign country anyhow.

Mr. BURGESS. No; but there are other ways of getting at it. The Canadian Government has a way of getting at it which is very effective. While on that particular feature of the question I would like to make a suggestion.

Mr. FORDNEY. Mr. Burgess, you say the Canadian Government has a very effective way of getting at it. They have this one: If you are an importer or exporter of goods to Canada, they will send to your factory an agent and demand that you show your books and go over

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your books. If you fail to give that information, they will very promptly notify that you no longer can export to Canada.

Mr. BURGESS. That is a fact, and I was just going to give an illustration of that very thing.

Mr. FORDNEY. I wish you would, Mr. Burgess.

Mr. BURGESS. It was only a few years ago that a manufacturer who had a surplus of goods which were being sold at \$5 apiece in this country determined to keep his factory going and not shut down on account of his organization, sent his goods to Canada for the purpose of relieving the situation, and sold them at \$3 apiece instead of \$5. There had been very few shipments sent to Canada before the Canadian customs officers got wise to the situation. A man came to Trenton and went to the factory and asked to see the books. He was very promptly refused. He said he regretted it, very polite, but he said he would not trouble him any further. He went back to Montreal. Within 24 hours they received a telegram from the Canadian customer saying that all of their goods were held up at the border and could not get into the country. The manufacturer very promptly sent word notifying the customs authorities of Canada to come down and inspect his books, which he did, found his assumption correct, and told these manufacturers that they could do one of two things: Either pay 30 per cent of the \$3 at which the goods were invoiced and 50 per cent on the amount of undervaluation of \$2; or, if they wished to amend their invoice, making it \$5, the value at which the goods were sold in the United States, they could do that, and they would only have to pay 30 per cent on the \$5. The result was that that kind of business was discontinued. The manufacturer went to Canada, built a plant, and is operating in Canada and supplying the goods from Canada, employing Canadian labor.

Mr. FORDNEY. That was under the antidumping clause of the Canadian tariff law.

Mr. HAMMOND. Under the Canadian antidumping clause the rate can not exceed 15 per cent, if I remember right.

Mr. BURGESS. The clause reads as follows:

In the case of an article of whatever kind or class made or exported into Canada, if the actual selling price to an importer in Canada be less than the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to Canada at the time of its exportation to Canada, there shall, in addition to the duties otherwise established, be levied, collected, and paid on such article on its importation into Canada a special duty, or dumping duty, equal to the difference between the said selling price of the article for export and the said fair market value thereof for home consumption; and such special duty or dumping duty shall be levied, collected, and paid on such article, although it is not otherwise dutiable.

Mr. HAMMOND. "*Provided.*"

Mr. BURGESS. Yes; "*Provided*, That the said special duty shall not exceed 15 per centum ad valorem in any case."

Mr. FORDNEY. That is, the additional duty shall not exceed 15 per cent ad valorem.

Mr. BURGESS. Yes.

Mr. FORDNEY. Does that apply to articles on the free list?

Mr. HAMMOND. It applies to any.

Mr. FORDNEY. I take it for granted, Mr. Hammond, that the 15 per cent is duty imposed on articles that are not dutiable.

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Mr. HAMMOND. I think it is the total duty upon the articles.

Mr. FORDNEY. Maybe it is; but on the other articles, the difference between the selling price at home and in Canada, the duty is added.

The CHAIRMAN. Will you give us the reference, Mr. Burgess, from which you have just quoted?

Mr. BURGESS. Yes, sir; it is the Canadian Customs Tariff Law, 1907, No. 6, page 143.

Mr. HILL. Mr. Burgess, if that man had found that those goods had been sold to anybody in the United States at that same price, it would not have come under that proposition?

Mr. BURGESS. No, sir.

The CHAIRMAN. To anybody in the United States do you mean? If he had made one sale to somebody in the United States?

Mr. BURGESS. No; I think that referred to the usual selling price as it says there; in the country of production.

Mr. HILL. I do not think you quite get the point of my question. A man has been selling goods over there at \$5. There comes along the end of the season and he offers those goods both abroad and at home for \$3. That would not be considered dumping, would it?

Mr. BURGESS. Undoubtedly not. Possibly at the time of exportation—

Mr. HILL. Precisely not.

Mr. FORDNEY. There is a case of a \$4 excess or dumping duty being collected; for instance, it was said that the Oliver Chilled Plow people sold a plow in Canada for \$14 which they said they were selling in this country for \$10. That was wrong, because they had imposed an additional \$4 duty there, the difference between \$10 and \$14.

Mr. HAMMOND. How did they do it, under that law?

Mr. FORDNEY. They came over here and found that it was being sold for a less price than it was over in Canada.

Mr. HAMMOND. I thought you said they had imposed a \$4 duty. I can not see how they can impose a duty to exceed 15 per cent.

Mr. FORDNEY. That is my opinion. I think that applies to the free-list clause.

The CHAIRMAN. I would like to get through by 4 o'clock. Mr. Burgess, are you nearly through?

Mr. FORDNEY. Before Mr. Burgess gets through I want to ask him if he is familiar with the German trade agreement? Did that German trade agreement work a hardship upon the goods that you are familiar with because of the ad valorem rates of duty and the operations which were carried on?

Mr. BURGESS. Yes, sir; very disastrously, and would have worked much more disastrously if the customs officials had recognized that as superior to the law, but some of the general appraisers said the law said that the foreign market value is the dutiable value and not the export value, as the agreement provided.

Mr. FORDNEY. Yes.

Mr. BURGESS. And in that way we were saved from some of the disastrous results.

Another matter that is always a thorn in the flesh in New York and is interpreted from time to time differently by the different general appraisers to suit certain conditions are the words and the definition of the words "wholesale value." It is very difficult to

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convince some of the general appraisers that any goods are sold at wholesale in Europe at all; that they are all sold in retail quantities. That may be true in a way. Take the goods coming from Limoges, with which I am more familiar, being sold in Paris. In the aggregate during the year one house may buy an enormous quantity of these goods, whereas the actual shipments are made from day to day and in small quantities as compared with the goods in this country. The same is true here; if we are shipping to San Francisco or any of the western cities we will ship in carload lots, possibly two or three carloads to a customer during the year, whereas the customer in New York will buy from hand to mouth, and in that way his shipments are very small, but in the aggregate will far exceed those of the western merchant. They are both wholesale quantities.

To overcome that difficulty I would suggest that a changing of the phrase be made, and I think a solution of it may be found in the words that I have just read, "the fair market value of the article when sold for home consumption in the usual and ordinary course in the country whence exported at the time of its exportation to the United States."

It does not raise the question of defining the word "wholesale." When I appeared before you some years ago in relation to this matter I advocated very strongly the matter of changing the basis of dutiable value from the foreign value, which is almost impossible to secure under the present conditions, to the American selling value. I have watched the operation of this matter for some time and I feel more convinced than ever that it is absolutely applicable to the situation, and that these values can be found, all the conditions are favorable to executing a law of that sort. A little step was made in that direction in section 11 of the present law where, when there is no foreign value to be obtained, the American value can be used. When that section was passed a French manufacturer told me that it threw the Limoges manufacturers into a fit, as he expressed it, and there was great consternation in the town for three or four days, when they received another cablegram from the official from New York to the effect that section 11 would never be applied to pottery ware. In proof of that, I would cite simply one instance of a good many:

A case of certain goods imported from Luxemburg, which is a small duchy independent of Germany, and the question came up of value. We had the values of the goods sold in Germany and surrounding countries, which showed undervaluation running from 10 to 50. The importer at once put up the claim that these goods were not sold in the country of production. Then it was said that section 11 applies in the case. He did not like that any better, and asked for a continuance of the case, which was granted him. He went to Luxemburg to the factory and induced the manufacturer to sell to three or four little houses—because there are only little houses there; the little duchy has only about 200,000 people—at the price at which he was paying for the goods. He did so, and brought back these invoices to prove actual sales in the country of production, corresponding to a little less than his valuation. The Board of General Appraisers, sticking to the strict letter of the law, sustained his entered value.

Under section 6 we have a countervailing duty and a bounty is paid on goods coming from the other side. I feel that some recogni-

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tion ought to be taken of the fact that the German Government (which owns the railways), as well as a good many of the continental countries, is practically doing that very thing. They are offering transportation of goods for export at much less prices than they are covering the same distances in the country for domestic consumption; for example, the latest figures I have of the rates from Dresden to Hamburg—for home consumption they are 80 cents for 100 kilos (220 pounds); when for export, going over the same road the same distance, it is 40 cents. The German Government makes a special rate of 40 cents, and the Hamburg shippers are becoming incensed over the situation and entered a protest a year ago to the German Government in relation to this very matter. For example, a shipment of goods from Frankfort to Portuguese East Africa, the through rate was \$132.86 from Frankfort, water rate included. From Frankfort to the port of shipment the inland freight was \$52.41 and the water rate \$152.77, or a total of \$205.18 if the goods were shipped right from Hamburg, as against \$132.86 if shipped from Frankfort direct on through bill of lading.

Mr. HILL. Mr. Burgess, does not it also prove that the governments, some of them, are making drawbacks in excess of the amount of the original import duty, the import duty on macaroni, for example, and other things?

Mr. BURGESS. I have no knowledge of that. I can refer to these facts if they are worth while.

The CHAIRMAN. I will be glad, if you desire, to have you submit a further brief.

Mr. BURGESS. Yes, sir; I think that possibly would save the committee's time.

I am representing an industry deeply interested in some method of forcing the ascertainment of the true market value from abroad. We have been up against this proposition, made a number of trips abroad; two commissions have gone over to France to arrive at the values. The matter has become a matter of diplomatic controversy, and the last commission that went over found most startling facts, which have been sufficient to warrant the Government in proceeding not only in establishing new values, but proceeding criminally against some of the importers.

ADMINISTRATIVE FEATURES OF THE TARIFF LAW.

PACKAGES AND PACKING CHARGES.

Hon. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee:

Section 28, subsection 18.—The desire on the part of the importers and their representatives to discontinue the assessment of duty on cartons, cases, crates, boxes, sacks, casks, barrels, hogsheads, etc., has been urged upon you. Such action would very seriously affect the domestic pottery industry, as well as the revenues derived from the importation of pottery ware.

We urge the continuance of this provision of the law for the following reasons:

First. It is the universal custom throughout the world among the manufacturing and wholesale dealers in pottery wares to make separate charges for the ware and the packages in which the ware is transported.

Second. It is absolutely necessary for the safe transportation of pottery wares. The goods can not be handled commercially otherwise.

Third. The cost of the ware is an essential part of the cost of the

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of the ware; saggars or fire-clay boxes must be used in the process of firing to protect the ware; the completed article must be securely and safely packed in some kind of a container before it is in marketable condition. The packages and packing charges are just as much a part of the cost of the finished product as are the molds and the saggars used in process of manufacture.

Fourth. The same relative proportion of difference in cost of producing the packages and of packing the ware exists in foreign countries and the United States as obtains in the cost of the ware itself. The percentage of profit is as great and in the case of English earthenware is greater than that obtained from the ware itself. The manufacturers reckon on a substantial profit coming from their package account. One English manufacturer, whose plant was of average size, made the statement in my presence that his average annual profit from his package account was £2,000, or about \$10,000. The American manufacturer, on the contrary, makes a more reasonable relative charge, and invariably his package account shows a loss.

Fifth. If no charge was made for the package, as is sometimes the case, an equal amount is added to the charge made for the ware, so that it makes little difference whether a package worth \$100 is charged for at \$100 straight or \$95 for the ware and \$5 for the package. In some cases, especially goods coming from the Continent, the ratio of cost of package to contents is very great. For example, an illustration given by Mr. Kolb, an importer: Sixty dozen decorated cream pitchers were invoiced at \$0.238 per dozen, or a total of \$14.28, the package charge being \$2.40. Another package containing 18 dozen decorated cuspidor spittoons, at \$0.773 per dozen, or a total of \$13.91, on which the package charge was \$2.40. In exceptional cases, where no charge is made for package, the total lump sum is charged for at entire purchase.

Sixth. When the importer sells the original package he invariably charges for the package, and the duty on the same. If, however, he repacks the goods, he adds the cost of package to his resale price. Wholesalers almost invariably make separate charges for packing goods bought in this way, whereas retail establishments, department stores, etc., make no such charge on account of the extra price charged for the merchandise.

Seventh. Eliminating this feature from the administrative law would undoubtedly result in irregularities of importations, the same as under the law of 1883, when the relative value of packages and packing charges became extremely excessive as compared with the value of the contents. I recall an invoice of a New York importing house where 60 per cent of the face value of the invoice was for package and packing charges.

AD VALOREM BASIS OF ASSESSING DUTIES.

An ad valorem basis for assessing duties is unquestionably the most equitable method, but from hard experience we know that it is the most difficult of just and equitable administration.

It is a great incentive to crooked dealings and undervaluations. It makes little difference what the rate of duty is if the value on which the duty is assessed is not correct.

It is, therefore, our urgent request and desire that every available safeguard be thrown about the administration of the law in this respect.

First. We would recommend that the wording of the law be changed in such a manner as to make more explicit the meaning of the act. The foreign market value, or wholesale price in the country of production, is the present basis of values. Bitter controversies have taken place over the question as to "what the foreign market" of certain commodities really was, and, on the other hand, what constituted "wholesale" quantities. The Canadian tariff having the same basis of valuing merchandise uses words that make more clear and simple the meaning intended, i. e., "the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported, at the time of its exportation to Canada."

Second. The enforcement of the law in respect to undervaluation is extremely important. The provision in the Canadian customs tariff law of 1907 known as No. 6, the "dumping clause," on page 143, is simple and extremely effective, because of the enforcement of the provisions under article No. 5 of the dumping clause; i. e., "the minister of customs may make such regulations as are deemed necessary for carrying out the provisions of this section, and for the enforcement thereof."

Subsection 7 of section 28, our present law, is even more explicit, but the making of it effective seems to be much more difficult and cumbersome. The importer and his attorneys have every incentive for fighting the provisions of this section. They have everything to gain, and little chance of losing under the present methods.

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because the actual proof of true foreign market value is most difficult to ascertain. In the administration of the Canadian law, if full information is not given fully and satisfactorily by the foreign shipper, the minister of customs denies further entry of such merchandise until such information is secured. If such provision could be enacted into law, and made mandatory upon the collectors of customs, much lengthy and useless litigation would be stopped.

Third. The present law requires that duty shall be paid on the foreign market value of merchandise imported; that provision implies that such market value is something that is commonly known and easily ascertained, and is in no way considered a private or secret affair. Why, then, should the invoices covering importation of such foreign ware be considered as strictly private and secret documents? We believe, therefore, that publicity of these invoices is one of the surest means of preventing irregularities and undervaluations.

Fourth. These invoices should contain a complete description of the goods and from whence obtained. The law at present seems to provide sufficiently for such safeguard, but in practice many invoices are so made as to be absolutely unintelligible even to the customs officers without personal explanation. In some cases these invoices are made in such a way as to require a key to their understanding, the factory number and the invoice number not corresponding; this being purposely done so as to make it impossible to trace the same back to the factory from whence shipped.

Fifth. The making of the consular declaration and of the customhouse entry should be made only by responsible parties with full knowledge of all the facts to which they make declaration or oath. These declarations and oaths should be made separately on each invoice and not in one omnibus form.

Importers' suggestions.—The various importers and their legal representatives have made many suggestions that would greatly weaken the administrative features of the law; most of these recommendations were embodied in the Roosevelt German tariff agreement. They are in substance as follows:

- (1) Export or special contract prices to be the dutiable value.
- (2) That local chamber of commerce certificates as to values should be considered competent evidence.
- (3) That the United States confidential agents abroad should be accredited to the Government of the countries of their activities.
- (4) That the hearings in reappraisement proceedings should be "open hearings."
- (5) That consuls shall certify to the shippers' invoices regardless of the proximity of the consulate to the place of manufacture.
- (6) That consuls shall not make inquiries as to the market values of merchandise whose invoices are passing through their hands without direction of the home Government.

All of these suggestions are dangerous in the extreme, as has been proven in numerous cases of importations under the German tariff agreement.

First. It is known that export and special values are very often made for the purpose of securing the American market.

Second. Certificates of the foreign chamber of commerce are *ex parte* statements; for example, in one case of textiles where the market value was questioned, the president of the chamber of commerce signing the certificate of value was shown to be the manufacturer and exporter of the goods in question. Again, in the matter of French China, the president of the Limoges Chamber of Commerce was found to be the owner of the China clay beds, from which all the manufacturers secured their raw material, and was also a stockholder in several of the manufactories. He, as president, was called upon to certify to the truth and accuracy of the market values of shipments from these very factories, which values were proven to be far below the true market value of such or similar goods in the country of production.

Third. Confidential agents being accredited to these foreign Governments could easily become *persona non grata* in the faithful performance of their duty. This condition very naturally might make the services of such officers ineffective.

Fourth. The "opening hearings" have been used by the importers to try to force the Government to reveal confidential communications in the hands of the Government and the sources from whence they came.

Fifth. Although a consular certificate is of little value in establishing foreign market values, and as the declaration is not considered as binding or having the effect of an oath on the Continent of Europe, yet such declaration made in person before the consul in the district in which the goods were manufactured did have a restraining influence, especially when the consul was alive to his duties and made diligent

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quotation from an address made before the Berlin Chamber of Commerce by one of its high officials will illustrate how eager and anxious the foreigners are to break down the safeguards which have been placed about the importations of foreign merchandise:

ADDRESS AT BERLIN CHAMBER OF COMMERCE.

"As a fact the United States is not dependent for its existence upon the collection of duties, and it can afford to allow the falling off of revenues in this direction for what they claim 'the general good.' From this standpoint it is clear that in the administration of the tariff is concealed the power and purpose to make the entry of certain competing articles as difficult as possible, and to carry this out the United States Government agents resort to the meanest and smallest measures.

"The first of these is the certification of the invoices by consular officers stationed in various districts of the Empire. Second, the investigations by customs officials as to the correctness of statements in the invoices which have not the force or effect of an oath in the German Empire. Third, the reexamination in cases where there is reason to doubt values by agents of their Treasury Department; and, fourth, by the high penalties added for undervaluation. Naturally, we all admit that an actual swindle is incorrect in any business transaction, but 'undervaluation' should not be treated as such unless positively proved. However, no such elasticity is to be found in the minds of American customs officials, who treat 'undervaluation,' as they call it, as fraudulent, and they at once apply the usual penalties. Our goods have been exported to England and the United States at lower prices than those for the home market, and there have been more or less low values for the States, and in some cases what would be there termed 'fraud,' and such are the conditions at the present time.

" 'Market value,' as defined under the American law, is the wholesale price at the time of export, and our trouble lies in having two sets of prices, one for export and the other for home trade. We have to resort to a division of shipments to keep our matters secret, save fees, and avoid control on that side.

"Declarations in invoices compelling all sorts of statements as to how the goods were obtained, whether by purchase or otherwise, values in detail, and charges of every character are the crowning point in the prying curiosity practiced under the American customs laws.

"These things all lead to abuses, and we are promised that the means of gaining information through American consuls and agents will be shut off. Our boards of trade are fully awake to the dangers that surround us, and in making every effort to close the doors against this abuse they are hoping for the whole support of the Government.

"Experience has taught that the tariff has not fulfilled the purpose for which it was created, but, on the contrary, the information gained has been misleading, because through the prudence of our officials we have taken care that investigations of this character shall throw little light upon the actual value of their consignments.

"In many cases trouble has been avoided by having invoices consulated remote from districts in which the goods are manufactured, but we must follow up this whole question as to the rights of consular and other officers to pry into our business, and in this we are assured of the cordial support of our Government. And now that concessions must be made by the American Government, if we stand together firmly as a body aided and supported by our board of trade, we can bring about a change that will be of untold benefit to our American export trade."

DECISION OF THE UNITED STATES SUPREME COURT.

The court's interpretation of market value, rendered by Chief Justice Fuller, of the United States Supreme Court, in the case of *Passavant v. United States* (169 U. S., p. 16, etc.), is as follows:

"Doubtless to encourage exportation and introduction of German goods into our markets the German Government could remit or refund the tax, pay a bonus, or allow a drawback. The laws in this country in the assessment of duties proceeds upon the market value in the exporting country and not upon that market value less such remissions or ameliorations as that country chooses to allow in accordance with its own laws and public policy. The act does not contemplate two prices or two market values."

Sixth. That provision in subsection 11, relative to the assessment of duty on consigned goods, and on goods where the foreign market value is not definitely established, "shall not in any case be appraised at less than the wholesale price at which such or similar imported merchandise is actually sold or freely offered for sale in usual wholesale quantities in the United States in the open market, etc.," has been bitterly attacked

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by the importers' attorneys, but we most earnestly desire that this provision be retained in the law, making more explicit what is comprised in "necessary expenses," and "a reasonable allowance for general expenses and profits."

The above suggestions I commend to your earnest consideration.

Respectfully,

WM. BURGESS.

BRIEFS ON SUBSECTION 18 OF SECTION 28.

NEW YORK, January 27, 1913.

COMMITTEE ON WAYS AND MEANS,

House of Representatives, Washington, D. C.

DEAR SIR: Importers generally are suffering under the method of establishing market values as adopted by the appraisers' department. The Government apparently proceeds on the basis that the manufacturers abroad are shop keepers and that goods are lying about on shelves waiting for wholesale purchasers to remove them in large quantities. If this is the case, they are ignorant of the situation. Manufacturers aim to carry no goods, but they manufacture goods on order. The method of purchases in the linen and burlap markets and other jute goods is arranged by the buyers contracting for certain merchandise to be delivered as soon as possible, which is over all for a period of six to eight months ahead, and the goods as manufactured are shipped. A large part of the time goods thus ordered are not to be found in stock, and the only goods which are sold for quick delivery are "distress purchases," made of small quantities, for which a premium is paid over the regular market price, which does not represent in any way the true market price. A sale is in the first instance a contract between buyer and seller to take, and on the seller's part, to produce and deliver certain goods, and when these goods are charged up and shipped the sale is completed and not before. Many quotations are made which are merely asking prices and which are above the actual market transaction. The appraisers' department very often marks up the values of merchandise simply on quotations or on more recent contracts made to deliver at some distant future date. We feel that when purchases are made they should be reported or recorded, and until those transactions are completed they should be regarded as the market. It is certainly unfair to consider a market—let us take for example in March, when goods are shipped—to be governed by a price made for delivery months later when no real deliveries or shipments have been made. We feel that contracts entered into at a proper price at the time the contract for delivery is made should be allowed to come through the customs duty on that valuation until said contract is exhausted.

We also feel that the Government officers should let us know the prices which they intend to compel the importer to pay duty upon. At the present time, although many of us are advancing values on merchandise over the prices we have paid, which we consider to be excessive advances, we are still further advanced in our values. Thus, if we are advanced 1 per cent or 2 per cent or 3 per cent in duty on the merchandise, the penalty is 300 per cent or 400 per cent greater than the duties. When we do not know what whim or guess is ruling the appraisers, we have to work in the dark, and in case we advanced our goods to a point which was too high, no allowance would be made by the appraiser in establishing a value. The rule seems to be that we are marked up in values without proper notice and without proper consideration of the facts and at no time does the Government assist us by putting prices down to the figure which they may have in mind; in other words, we seem to be trapped by people who are endeavoring to get as much duty out of us as possible and not a fair duty—a most unjust, undignified attitude on the part of the Government and a clear hardship to the importer.

We ask that some provision be made in the administrative act which will protect us from these unfair, unjust practices. If such a condition existed between individuals, the individual acting in this fashion could well be accused of sharp practices.

Yours, respectfully,

THE LINEN ASSOCIATION OF NEW YORK,
Per H. D. COOPER.

NEW YORK, January 31, 1913.

HON. OSCAR W. UNDERWOOD,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: Under the administration of the present customs laws an importer can not conduct his business with a sense of that security which we believe every Government should extend to those engaged in commerce.

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When an importer places a contract abroad, we think he ought to be in a position to know exactly what his goods will cost him landed here. As the matter stands to-day, he can not do this. He can not foresee the course of the foreign market between the time of placing the contract and the dates when shipments against that contract arrive here; consequently he is unable to make a close calculation of the duties which will be levied on his goods. He has to contend not only with possible fluctuations in the foreign price, but he has no means of determining what views the customhouse officials may hold on the subject of market value at the time his goods arrive. The difficulty of defining the term "market value on day of shipment" within precise limits he finds insuperable.

Except in rare cases, the only guide he has in this matter is the price he has paid to the foreign manufacturer or merchant. Other importers may be paying more or may be paying less for the same thing; the financial standing of a purchaser, the size of his orders, his shrewdness and experience all enter into the question of the price he can secure.

There are few, if any, textiles on which the best informed will agree exactly as to value, and of the great bulk of textiles no one, however expert, can tell the value within several per cent. It is therefore a manifest hardship on an importer that for a merely personal difference of opinion he should be subjected to the payment of additional duty and to the imposition of heavy fines into the bargain.

Prior to the tariff act of 1897 this situation was recognized by imposing a fine only after a difference of 10 per cent was established between the entered and the appraised values.

We suggest as an equitable arrangement that an importer be allowed to file with the customhouse here, or with the American consul in the place of purchase, a copy of any contract made with a foreign supplier, samples of the goods in question to be attached to the copy of order; that during the continuance of that contract (not to exceed six months from the date of the first shipment) he be permitted to enter goods against that contract at the price indicated thereon, provided the customs officials are satisfied of the genuineness of the transaction. In the long run the Government would not lose by this arrangement, as it would gain on a falling market what it lost on a rising market, and as a compensation for the labor of keeping the necessary additional records it would save a great deal of time and trouble by the elimination of many, if not most, of the disputes and appeals concerning the vexed question of market value.

Respectfully, yours,

THE LINEN TRADE ASSOCIATION OF NEW YORK,
Per BRYDON LAMB, *Treasurer*.

NEW YORK, January 7, 1913.

PACKING CHARGES.

Cases, boxes, and other external wrappers, used for containing in bulk the merchandise shipped from foreign ports, shall be free.

Cartons, boxes, paper, twine used for packing merchandise, known as packing charges, shall be free, provided, however, that none of the above-enumerated articles shall exceed 10 per cent of the value of the merchandise that they cover. Should the value exceed 10 per cent, the packing charges are dutiable ad valorem, according to the schedules, to which the individual items in the packing elements belong, viz, cases, wood rate; cartons, paper rate; twine, jute rate; bales (wrapper), jute rate; tins, metal rate.

BRIEF.

Wooden cases per cubic meter cost in France 18 to 25 francs (\$3.60 to \$5), according to the thickness of the wood. They are essential for conveyance of merchandise and are salable in the States from 40 to 75 cents. We deem it an injustice to the importers, as the wooden-box industries do not require protection under these circumstances. Furthermore, under the present tariff the ad valorem rate is according to the rates assessed on the value of the merchandise contained therein. It often occurs that a case contains miscellaneous merchandise that is rated under various schedules, and consequently of great annoyance and hindrance to the appraisers as well as to the

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importers to determine at what rate the cases shall be assessed. We pray for relief from these trying and annoying complexities in the new tariff bill.

By adopting our proposed schedule, we believe that the importers and the Government will find equitable satisfaction.

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STATEMENTS REGARDING CHANGE IN TOBACCO SCHEDULE
RELATIVE TO SIZE OF PACKAGES.

JANUARY 14, 1913.

HON. OSCAR W. UNDERWOOD,
*Chairman Ways and Means Committee,
House of Representatives, Washington, D. C.*

DEAR SIR: At the suggestion of Mr. Doremus, Congressman from our district, I am submitting to the committee a brief statement regarding the change in the tobacco schedule, relative to the size of packages. I am doing this in behalf of the Scotten-Dillon Co., of this city, for whom I am counsel as well as a director.

We desire to have amended the provision of the present tariff law of 1909 contained in section 30, page 110, amending section 3362 of the Revised Statutes of the United States. In accordance with this provision, fine-cut chewing tobacco can only be put up in certain size packages, of which a 16-ounce package is the largest. From time immemorial, previous to the passage of this act, fine-cut tobacco was put up in 10-pound wooden pails. How it came about that the change was made in the law so as to exclude 10-pound pails is a mystery to us. It was done at the very last moment of the passage of this bill, and we were told by the Committee on Ways and Means, when we objected to it, that absolutely no amendment would be allowed to the bill at that stage of any nature.

There seems to be no good reason why the 10-pound package of fine cut should be prohibited. There are, however, numerous reasons why manufacturers should be allowed to put up this size package, the chiefest of which is that fine-cut tobacco keeps very much better and is sold to the consumer in much better condition from the larger bulk in the package. At present most of it is sold in little rolls, retailing at 5 cents, which soon dry and become powdery. The consumption of fine cut has very largely decreased since the passage of the last tariff law, due largely, we believe, to the enforced change in the style of package. Of the present output, we estimate that Scotten-Dillon Co. produce about 40 per cent. The various independent companies which have been formed, after the dissolution of the Tobacco Trust, so called, produce about 40 to 50 per cent, and the balance by other independent producers. Scotten-Dillon Co., at the time of the dissolution of the American Tobacco Co., was the largest independent producer of manufactured tobacco in the country.

Owing to the fact that Mr. Doremus was unable to secure a time for a hearing before the committee, I am constrained to submit this matter on brief, which I am inclosing herewith, although perhaps it should more properly be filed with the clerk of the committee. We do not anticipate that there will be any objection to this change in restoring the former custom of the trade, and I trust the matter will receive as thorough attention from the committee as though presented on a formal hearing.

Thanking you in advance for your kind attention, I am,

Very truly, yours,

GEO. B. FOWLER.

BRIEF IN BEHALF OF THE SCOTTEN-DILLON CO., FOR THE RESTORATION OF THE
PRIVILEGE OF PUTTING UP FOR SALE OF FINE-CUT TOBACCO IN PACKAGES OF 10
POUNDS.

*To the honorable Committee on Ways and Means of the House of Representatives of the
Congress of the United States of America:*

In behalf of the petitioner, Scotten-Dillon Co., manufacturer of smoking and chewing tobacco, located at Detroit, Mich., I respectfully petition that section 3362 of the Revised Statutes of the United States, as amended by the tariff act of 1909, section 30, be changed so as to permit the manufacture and sale of fine-cut tobacco in packages of 10 pounds each, and that the proviso of the first paragraph of said section be amended so as to read: "Provided that snuff may, at the option of the manufacturer, be put up in bladders, and in jars containing not to exceed 20 pounds, and that fine-cut tobacco may, at the option of the manufacturer be put up in wooden pails or tins containing not to exceed 10 pounds."

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ARGUMENT.

It will be needless to remind the committee that prior to the passage of the act of 1909, and from almost time immemorial, fine-cut tobacco was sold everywhere, from the high-price cigar store to the country crossroads store, from a wooden pail containing 10 pounds. This was the customary style of package for this kind of tobacco. This style of tobacco was sold over the counter by weight in any quantity desired by the purchaser, and was practically the only kind of tobacco so sold.

The reason for this, as any tobacco manufacturer or tobacco consumer will tell you, was that fine-cut tobacco kept better when put up in a package of considerable bulk. It did not dry; it did not sour when well made; and the consumer got it in first-class condition.

For some reason, probably an oversight, the 10-pound package of fine cut was omitted in the draft of the act of 1909, and was not discovered by the fine-cut tobacco manufacturers, at least I am so informed, until the bill was so far advanced that the committee would not permit any amendment of any sort to be made to the bill.

So far as we are able to discover, there is no good reason why the 10-pound package of fine cut should be prohibited. On the contrary, many reasons exist why it should be restored. We have already indicated that fine-cut tobacco keeps better in large bulk packages and goes to the consumer in better condition. At present fine-cut tobacco is mostly sold in little rolls, retailing at 5 cents each, of such small size that the tobacco soon dries up and becomes powdery.

Largely as a result of this change in package, as we believe, the consumption of fine cut has dropped off nearly 50 per cent since the act of 1909 has been enforced.

Prior to the dissolution of the American Tobacco Co., Scotten-Dillon Co. was the largest of the independent manufacturers. To-day we make about 40 per cent of all the fine-cut tobacco made. The concerns formed after dissolution of the American Tobacco Co. manufacture from 40 to 50 per cent, and the balance is made by small independent manufacturers.

We believe there will be no objection to the restoration of this style of package on the part of any manufacturer and, from our own information, it will certainly be welcomed by the consumer.

Owing to the fact that we were unable to obtain a time for hearing before the committee we are forced to submit the question upon brief, which we hope will receive due consideration at the hands of the committee.

Respectfully submitted.

SCOTTEN-DILLON CO.,
By GEO. B. FOWLER, *Attorney.*

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BRIEF ON YACHTS SUBMITTED BY A. J. M'INTOSH.

YACHTS.

JANUARY 15, 1913.

Hon. OSCAR W. UNDERWOOD,

Ways and Means Committee, House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: I am in receipt of your favor of the 13th instant.

I don't believe I have any views to express on the subject of whether a duty should be placed on foreign yachts or not, but I spent \$12,000 in getting exact and accurate figures on the subject of article 37 of the last tariff bill, for the purpose of presenting same to the Ways and Means Committee.

I personally saw 54 Members of Congress last session, who agreed that section 37 of the Payne-Aldrich bill was an outrage and promised to vote for my substitute, introduced by Mr. Francis Burton Harrison. I saw every member of the Ways and Means Committee, except one, who said the same. You, also, said you agreed with me in every respect, but that you would do nothing.

The facts are as follows:

There never was any duty imposed on foreign yachts until 1907, when several shipyard concerns asked that Congress impose one and it was placed in the Payne-Aldrich bill at 35 per cent. When it reached the Senate, Mr. Lodge, of Massachusetts, framed up the outrageous and unfair amendment which was afterwards passed against the protests of all the House conference members.

Whether you place it on the free list or impose an excessive duty don't make much difference to any of the shipyard concerns or prospective yacht purchasers, so long as

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you annul the retroactive tax and exact a law remitting any tax money that any owners have already paid under protest. Personally I think the shipyards would receive a great increase of business if foreign yachts were admitted free.

If you will carefully read section 37, I feel sure you will agree with me that Congress passed an unfair and un-American law and the honor of correcting the outrage would be creditable to your committee.

The shipyards make 10 times more money out of reconstruction and yearly repairs than they make out of the original building of a yacht.

Section 37 has automatically drawn the yachts out of the country and out of the business of spending money in this country. If they were admitted free there would be more reconstruction, repairs, and supplies.

It may surprise you to know that the average foreign yacht has spent on it 100 per cent of its original value each year in the United States in reconstruction, repairs, upkeep, and general supplies.

I attach full details and have affidavits from every prominent owner of a foreign yacht in the United States. My records go back 20 years and are very complete, and they are at your disposal.

Yours, truly,

A. J. McINTOSH.

BRIEF.

The shipyard people want a duty on foreign yachts, similar to automobiles, so it would be to the financial advantage of every American citizen to build in this country. The first draft of the tariff bill provided for such a duty.

This was changed before the passage of the act and imposed a yearly tax on foreign yachts already here and giving them an option of paying a duty. This yearly tax has defeated the purpose of the bill.

Most of these yachts have been in this country for many years, and large sums have been spent on them to an extent that they were practically of domestic construction (see list A). In attempting to penalize the owners of these yachts and practically force them to pay duty on an article which was free of duty when purchased has had the effect of driving the yachts out of the business of spending money, and the loss of revenue to American shipyards has reached large figures for the reason that 16 yachts have been broken up, 14 have stopped all expenditures except watchmen, 11 have been sold abroad, 5 have been sent abroad to be sold; a majority of the balance will be sent abroad if the law is not found unconstitutional or amended; 14 have paid duty—only 2 of any size; 9 have paid the tax—only 1 for 1911.

The tax was in effect retroactive, oppressive, and unpopular.

From a standpoint of a revenue producer, this act affects to-day 46 American citizens only, and the total, if collected from all, would amount to \$117,346.

A duty on one good-sized yacht would produce more revenue than this amount and would afford protection to our shipyards.

The present act does not place such a duty; it is only optional with the owners, and yachts of foreign build can still be brought to this country and used by American citizens for any term, if less than six months, without paying any duty or tax.

There is no article that should be more subject to duty than a yacht. The amount of money spent on these yachts in this country is interesting reading (see list A). Our shipyards have already lost a large part of this revenue.

If the tax is repealed immediately and the proposed bill substituted, it would have the effect of automatically bringing these yachts, that have been owned by Americans for years, into the service of spending money, and as soon as they have expended in this country 100 per cent of their appraised valuation they could have American register for pleasure purposes only.

Yachting is a fashion and a fad, and the more yachts there are the more people want to build. The greatest profit to American shipyards and workmen is in the repairs, reconstruction, and running expenses, rather than in building. This is illustrated in the case of a foreign-built yacht that cost \$70,000 in England and the owner spent, the first three years she was in the United States, over \$400,000.

This yearly tax will not give business to the shipyards, but a duty on future purchases will give business to the shipyards in this country.

All of the yacht owners agree that a duty is proper, but to levy a tax in 1909 on an American citizen who has previously purchased a foreign yacht, and make that tax amount to \$12,000 a year, as it does in some cases, is drastic and unjust. As many of these owners each expend fully \$75,000 a year in the United States it will certainly not have the desired effect of protecting American labor if the use of these yachts is

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This act has produced considerable litigation. A number of the present suits are already up to the Supreme Court. Even after that court passes on the constitutionality of the act, litigation is bound to continue on the many phases of a tax that does not have popular approval.

This tax law simply gives the Government a cause for debt against the individual, not against the yacht. The legal proceedings necessary have been cumbersome and ineffectual in many cases.

I do not know of any interest that is opposed to this revision.

JANUARY 15, 1913.

Since the above was written nine additional foreign yachts have been sold abroad and one foreign yacht has been purchased by an American citizen in the last two years. The loss to shipyards of the United States and to the supply concerns, by reason of these yachts being sold abroad, amounts to a very large figure.

List of liable yachts.

Name.	Gross tonnage.	Amount due.
Agawa.....	602	\$4,214
Aibatross.....	30	210
Alcedo.....	981	6,867
Atalanta.....	1,161	8,127
Babelle II.....	5	35
Bandit.....	14	98
Brenda.....	4	28
Carmen.....	110	770
Carola.....	240	1,680
Cassandra.....	1,286	9,002
Corona.....	304	2,128
Christabel.....	248	1,736
Diana.....	785	5,495
Ella May.....	41	287
Gundreda.....	294	2,058
Ituna.....	171	1,197
Isolde.....	65	455
La Rita II.....	5	35
Liberty.....	1,607	11,249
Lorna II.....	5	35
Mohican.....	231	1,617
Monk.....	5	35
Neola.....	20	140
North Star.....	818	5,728
Old Nassau.....	244	1,708
O-we-ra.....	426	2,982
Peggy.....	■	56
Remlik I.....	432	2,924
Riviera.....	407	2,149
Rough Rider.....	15	105
Safa-el-bahr.....	487	3,409
Surf.....	390	2,730
Sweetheart.....	22	154
Tarantula.....	123	801
Trio.....	■	63
Vanadis.....	1,300	9,100
Venetia.....	588	4,116
Wanderer.....	362	2,534
Wakiva I.....	417	2,919
Wakiva II.....	853	5,971
Warrior.....	1,097	7,699
Winchester II.....	132	924
Wapiti.....	18	126
Velocity.....	97	679
Zarifa.....	378	2,646
Yacona.....	527	3,689
	17,364	120,748

List of yachts exempt because permanently abroad.—Asteria, Athena, Lysistrata, Mohawk, Nahma, Valfreya.

List of yachts that have been broken up.—Caress, Cyane, Belin, Gunilda, Jessica, Kahma, La Rita II, Miranda, Queen Mab, Rough Rider, Satanella, Senta, Sybarita, Trio, Tyrona, Lady Evelyn.

List of yachts on which duty has been paid.—Enterprise, Hester, Meriel, Narada, Zara, Argo, Edessa, Minota, Nahama, Natalie, Shona, Taormina.

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Tax paid.

Vessel.	Amount.	Years.	Remarks.
Anenome.....	\$836.00	1910	Sold foreign.
Arethusa.....	126.00	1909	Do.
Hevella.....	32.34	1909-10	
Liberty.....		1909-10-11	Do.
Naniwa.....	63.00	1909	Paid duty.
Riviera.....	2,856.00	1909	
Seehund II.....	32.34	1909-10	
Tuscarora.....	3,731.00	1909	Sold foreign.
Wapiti.....	70.00	1910	

List of yachts sold abroad.—Alsacia, Anemone, Arethusa, Conqueror, Enchantress, Erl King, Iolanda, Marguerite, Tuscarora, Valient, Hathor.

Section No. 37 affects 46 American citizens. The total yearly tax, if paid by all, would amount to \$117,346. Of this amount nearly three-fourths would be collectible from 10 men.

I have shown herewith that the owners of these foreign yachts did spend approximately, on yachting in this country, slightly over \$1,000,000 a year.

Since the passage of this act 16 yachts have been broken up; 14 have stopped all expenditures, except watchmen; 11 have been sold abroad; 5 have been sent abroad to be sold; a majority of the balance will be sent abroad if the law is not found unconstitutional or amended; 14 have paid the duty—only 2 of any size; and 9 have paid the tax—only 1 for 1911.

The loss thus far to shipyards and labor in the United States is approximately \$2,500,000.

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TESTIMONY OF MR. R. H. MONTGOMERY, PRESIDENT, AMERICAN ASSOCIATION OF PUBLIC ACCOUNTANTS.

The witness was duly sworn by the chairman.

MR. MONTGOMERY. I wish to propose a few suggestions and offer a few criticisms with reference to the administrative features of the so-called corporation-tax law. These criticisms do not run in any way to the principle of the law nor to the amount of it. As a matter of fact, the corporations which the accountants of my association represent have a capital of some billions of dollars and pay some millions of dollars of this tax; and I think perhaps they pay it more cheerfully than any other tax in this country is paid. And if that is any criterion as to the collection of the income tax, which I believe you are going to favor us with, I think it will be very cheerfully received.

Our criticism runs to three points. As to one of them, I addressed you one year ago, and that is as to the fiscal period. We have asked that in all legislation which has to do with the taxing of the business community, where that tax is assessed on a fiscal period, that it be the fiscal period of the corporations. And consequently——

MR. JAMES. That has been eliminated, has it not?

MR. MONTGOMERY. Not yet, sir.

THE CHAIRMAN. We haven't acted on that, because if there is an income tax and an amendment reported there is a possibility and may be a probability that a corporation-tax law will be substituted, even if we start out with an income tax, and there is no use in amending this law so far as we can see.

MR. MONTGOMERY. Yes, sir; we understand that; and in commenting on that I think I may say that we enter into the discussion

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with some familiarity with the conditions; in other words, we think we ought to know something of it, being in touch with almost all of the corporations in every State of the Union, and with a large percentage of individuals, and they are discussing that income tax.

Mr. JAMES. Do you really think they all will be willing to pay it?

Mr. MONTGOMERY. I am not, of course, prepared to say authoritatively; but I think I can say that they are willing to bear a large share in the expenses of the Government.

The present law is, if I may use the expression, miserably drawn. No one understands it. The features of it that were supposed to go into effect at once didn't go into effect, because the Treasury Department couldn't write regulations under which the corporations could pay their bills; so that law is not being observed to-day. When a corporation pays its 1 per cent it does not pay it under the act but under regulations that have been very well formulated by the Treasury Department. So we would suggest that in any new laws it might be just as well to leave the formulation of the laws to the Treasury Department instead of attempting again to explain all the ramifications of income, and of expense, and of net profits, as they relate so differently to different industries. It might be just as well to do that.

The CHAIRMAN. As to this, Mr. Montgomery, they have got to lay down some general rule as to what profits are.

Mr. MONTGOMERY. Well, they haven't been able to work it out so far. In other words, the net profits of a mining and a trading company are so different that you couldn't frame one law to cover both. And that's where the Treasury Department has been in difficulty ever since this law was drawn; and then in different districts different United States judges have ruled differently.

Mr. KITCHIN. We know that many of the States have an income tax, and most of the foreign Governments.

Mr. MONTGOMERY. Foreign Governments have, but not many of the States.

Mr. KITCHIN. Well, quite a number have; my State has, for instance. You have looked into the laws of the foreign Governments, have you?

Mr. MONTGOMERY. Yes, sir; they leave this machinery to the department. The British law I think has been working out on the most satisfactory basis. They leave it to the department to work it out and find it very much more satisfactory. I think it would be best for the largest part of the United States at any rate, and the Government would receive its full revenue from the tax.

Mr. KITCHIN. The only thing they object to in the English law is the rate. It is too high to be satisfactory here, I fear.

Mr. MONTGOMERY. Yes, sir; there is one other point, too, that—

Mr. JAMES. Before you get to that, what rate do you think ought to be imposed in this income-tax law, and what should be the amount before we start?

Mr. MONTGOMERY. Well, of course, I am not informed as to the desire of others; but I can give you my personal opinion on that; and, of course, we are in direct touch with the corporations of the country. I think that they are willing to pay a very fair share of the expenses of the Government, if they see that the money is being well expended

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and in a way that they consider is for careful administration. In other words—

Mr. JAMES. Under the Democratic administration they don't doubt it?

Mr. HILL. And so you have made these criticisms and believe that everybody is willing to pay if assured that the money will be spent purely for Federal matters and not for the improvement of localities merely. In other words, the entire number would pay the tax we are proposing to have them pay if the money were used in a truly public manner or for some great national purpose?

Mr. MONTGOMERY. Yes, sir; if used properly.

Mr. JAMES. As, for instance, prosecution of the trusts and all such things? I understand there is a very marked change in regard to the payment of the tax.

Mr. MONTGOMERY. It is under favorable consideration almost universally. It is surprising to the accountants when we get together, as we do, and having experience with the corporations, to note expressions as to how they will pay this tax. But there is one inequitable feature, not large, but it is inequitable. It is felt that the law should be based on more than one year's operations. It should be, as we believe, based on the income which is an average of the preceding three years. In other words, a certain manufacturer may in 10 years make \$1,000,000, and another one may make the same amount; but one in the course of that time may pay only \$10,000 income tax, and the other \$20,000 tax. The reason for that is that there are certain fluctuations that are almost invariable in the estimating of income at the end of a certain period. Large inventories are of course largely affected, and markets and prices have to be taken into consideration. I know a house that year before last paid on the basis of a \$60,000 profit. The next year, through changes in the market, it had a loss of \$40,000. It paid the Government \$600, and the following year it lost \$40,000. And he got no rebate. Now, that should be avoided. This is not much loss to the Government; it evens it up over a period of time; and I believe in other countries where there is an income tax and has been for many years it is found to be equitable.

Mr. JAMES. Well, now, the proposition that a man may be able to pay a good deal this year, and may not have anything next year, applies to all people, doesn't it?

Mr. MONTGOMERY. There is no certain thing for a man with reference to this tax. He may have assets that he has not yet realized and on which he pays an excess tax. Now, when he comes to realize on it it is an overpayment just the same as any other overpayment made to the Government.

Mr. LONGWORTH. You speak of the English system of averaging up the tax for three years. How do they do it when they change the rate almost every year?

Mr. MONTGOMERY. Well, they assess the profit for the preceding three years and apply the current rate. That is perfectly fair.

Mr. JAMES. You say you have talked to a great many people on the subject?

Mr. MONTGOMERY. Yes, a very great many—boards of trade and

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Mr. JAMES. Well, how is it you didn't sound them on what the exemption ought to be?

Mr. MONTGOMERY. Well, as to corporations I think the exemption is reasonable.

Mr. JAMES. Well, as to the individual?

Mr. MONTGOMERY. There is a very general feeling that it ought to be very small.

Mr. LONGWORTH. And how would you settle on a figure? That's a very important thing. What assessment or figure would you say should apply, bearing in mind that in other countries, such as England, they have been estimated or fixed? In England it is incomes of more than \$1,000, in another country \$800, in Germany a little over \$1,000, which is the highest, all the others running down. Now, what do you think it ought to be?

Mr. MONTGOMERY. It would be under \$2,000 if we were to have a law in force like most of the countries, from what I have heard.

Mr. FORDNEY. We got it on \$600 in the Civil War, didn't we?

Mr. JAMES. Would that be a fair proposition, considering the fact that there is no other class of people who would be affected—to pay so much to keep up the Government as they do?

Mr. MONTGOMERY. Well, they're paying it now in another way, and hope to be relieved through the present administration; and they are willing and prepared to pay it in this way.

Mr. JAMES. Yes, I know; but under our Federal Government the poor people pay as much, you might say, to keep up the Federal Government as a man who has many hundreds of thousands of dollars, because it is practically a consumption tax.

Mr. MONTGOMERY. Yes, that's true; and if the present high cost of living continues, why I should say that the exemption might be fairly high.

The CHAIRMAN. Your time has expired, Mr. Montgomery.

The brief submitted by Mr. Montgomery follows.

EVIDENCE PRESENTED ON THE ADMINISTRATIVE FEATURES OF THE PAYNE-ALDRICH TARIFF ACT BY ROBERT H. MONTGOMERY, PRESIDENT OF THE AMERICAN ASSOCIATION OF PUBLIC ACCOUNTANTS.

The American Association of Public Accountants is the national organization of accountants in all parts of the country, and represents a large majority of the practicing profession. Our sole object in requesting a hearing before this committee is that we may be able to render such assistance as from our wide and practical experience we feel that we are qualified to render. Our experience covers governmental as well as commercial activity. While it is true that many of our clients are corporations, yet it is proper to state that during recent years we have been retained by Federal, State and municipal bodies, as well as by civic and other quasi public organizations. Our attention, therefore, is drawn to the subject of taxation by those who levy as well as by those who pay.

For this reason our attitude is strictly impartial. As a body we are not concerned with the principle of this tax nor of any other, but inasmuch as the making of returns for the purposes of taxation falls largely upon the shoulders of public accountants, and because we stand in a fiduciary relation to a large number of the taxpayers, we believe that our opinion is of value. I maintain that wherever possible every concession should be made to the taxpayer so long as such concessions do not interfere with the purpose of the taxing law; and for this reason I urge that in all legislation affecting finance and accounts the professional accountants of the country may have a chance to express their opinion and to advise legislators as to the practical side of the legislation which they have before them. Furthermore, it will be apparent to any one that the

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law which is most easily understood and most easily applied will bring the most satisfactory results to the Government.

In the case of the excise tax on corporations the members of your committee are fully aware that the provisions of the law were found unworkable and the Treasury Department's rulings have been at wide variance with the letter of the law. This divergence has been rendered necessary, as otherwise the law could not have been applied.

It might be well to consider the desirability of authorizing the Treasury Department to formulate regulations hereafter, as it has actually in the past, except that in such case the law itself need not go into details as to how net income is to be determined. As a matter of fact, it is almost impossible to so define net income or net profits that all classes of enterprises will be subject thereto. For instance, mining companies and trading companies have different problems to meet, and if the Treasury Department were empowered to issue instructions modified to meet varying conditions there would not be so much dissatisfaction with the administration of the law as now exists.

For the purpose of record, and in order that the matter will not escape attention when, and if, the present tariff act is amended, I desire to discuss certain other objectionable features of the existing law. I call attention first to the provisions of the law which provide that the tax shall be charged upon the entire net income of corporations, and that net income is to be ascertained by deducting from the gross amount of the income from all sources expenses actually paid, losses actually sustained, interest actually paid, in each case within a year.

The words "actually paid" convey but one meaning to those who are versed in financial and commercial affairs, and that is the actual disbursement of money, either currency or bankable funds. Naturally, those who wish to comply with the law have a just grievance if they are informed that these words have one meaning when they appear in a Federal statute, and another meaning at all other times. We maintain that the phraseology should have been:

"Expenses actually incurred" because the payments are not necessarily, nor in fact usually, all made in the period in which the expenses are incurred.

"Losses actually ascertained" because losses may accrue and the amount not be ascertained until a subsequent period.

"Interest actually accrued" because interest is not paid until the end of the period during which it accrues and the interest accrued is the proper charge against income.

The act is confusing also in that it refers at one time to net income received, in another to gross income without the addition of the word received, and in another paragraph to gross income received. This complication of terms naturally leads to endless confusion. Our suggestion is that there are two methods which may be adopted for taxation purposes; either to tax the difference between actual cash receipts on revenue account and actual cash payments on revenue account, which difference will seldom, if ever, represent the profits of a manufacturing concern, or to tax profits made up in the ordinary commercial way, namely, to ascertain the gross income earned whether received or not, and to deduct therefrom: Expenses actually incurred during the year whether paid or not; losses actually ascertained and written off during the year whenever incurred; interest accrued during the year whether paid or not; a reasonable allowance for depreciation of property; and taxes.

We have found that the corporations as a whole look upon the tax as an equitable one except as to the unnecessary annoyance and expense hereinbefore indicated, and with the further exception that it works a hardship in a few cases where profits are difficult to determine. For instance, a corporation which makes a large apparent profit one year may find during the succeeding year that the previous year's profits were largely overestimated and that the adjustment thereof results in a loss sufficiently large to show a net loss for the year. The Government has received its 1 per cent upon the profit, subsequently discovered to be erroneous, but grants no relief, although an honest mistake has been made in the payment.

This condition is not extraordinary; the values placed upon the assets appearing in a balance sheet are necessarily estimates, and are based upon conditions which change rapidly and for many different reasons. Corporations engaged in businesses affected by the tariff may value their inventories at a market price on December 31, which proves to be largely in excess of the actual price which can be realized in April. If a tax has been paid in good faith, based upon the best available information to December 31, there should be some adjustment possible when the inventory is reduced to cash.

The solution of this inequitable feature of the present law which is found in the British income tax practice, and which works no hardship upon the Government, is to base the tax upon the average result of the last three years' operations immediately

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Government would be the same as it is now, but as to a few corporations the tax would be somewhat less. It is urged, however, that the trifling loss to the Government would be more than compensated by the universal approval which would be extended to that taxing power, which, through a provision such as has been suggested, indicates to those paying the tax that it desires to deal fairly with them.

In view of the fact that an income tax has been levied in England for more than 50 years it is obvious that valuable experience has been gained, of which we should take full advantage. We have among our members accountants who have had wide experience with the practical workings of the British laws, and their advice and suggestions are at your disposal.

In conclusion I suggest that wherever the machinery of Federal administration can coordinate with honest and efficient business methods simple justice requires that the laws specifying the machinery be skilfully drawn.

I would state, as I did when speaking before this committee on January 10, 1912, that the American Association of Public Accountants, from its close connection with all classes of business, is in a position to offer indispensable services and that we shall always be ready and glad to render every assistance in our power to further the preparation of efficient legislation.

We do not desire to appear as destructive critics, but as honest collaborators with those to whom the making of the laws is entrusted.

EVIDENCE OFFERED BY ARTHUR YOUNG, CERTIFIED PUBLIC ACCOUNTANT, CHAIRMAN OF THE COMMITTEE ON FEDERAL LEGISLATION OF THE AMERICAN ASSOCIATION OF PUBLIC ACCOUNTANTS AND PRESIDENT OF THE ILLINOIS SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS.

I appear before your committee for the purpose of offering for its consideration the advisability in levying any corporation tax of allowing corporations to make their annual returns based on their fiscal year, irrespective of whether that fiscal year may happen to be December 31 or not.

The main consideration in behalf of this policy is the fact that the Government will not suffer any diminution of revenue, while on the other hand it will confer great advantage to the business community.

A large number of corporations can close their year quite readily at December 31, but a very great number can not do so without great inconvenience and large expense. The main reason for this is that the taking of inventory is a matter of the utmost importance in ascertaining the profits. All conservative companies try to take their annual inventories at the time when their stock in process of manufacture, or their raw-material stock, is at the lowest amount, the reason for this being that a more accurate inventory can be taken and the possibility of errors be avoided. In addition many corporations that have to take inventories in the open air can not make their employees do this work in the severe weather and have to wait until a milder season of the year; other corporations are at their very busiest period at Christmas time and can not give the time to take the inventory without suffering severe financial loss. A factory has usually to shut down in order to take inventory. It therefore aims to do this at the slackest time of year.

It is suggested that the Government would be less liable to errors by the corporations if each corporation were allowed to close its year and take its inventory at the time of year when its stock is lowest and when for other reasons it has most time available for closing its business.

The above points can be illustrated from a few typical industries.

In the glass industry of this country, which is of enormous extent, it is necessary because of summer heat to close down the factories during the two hottest months of the year. Almost every one of these companies takes advantage of this opportunity to make up its inventory and close its business. Such corporations suffer loss and inconvenience by taking an inventory on the 31st of December. I believe many of them make their returns to the Government on an estimated inventory December 31. It would, of course, be much better to have their year close on the date of the actual inventory.

In the case of many blast furnaces, they have enormous stocks of iron ore on hand in wintertime. This is especially the case with blast furnaces situated on the Great Lakes, as they get their heavy supplies just before the close of navigation. The conservative corporations in this line of business prefer to take their inventories in spring, or summer time, when the stock of iron ore is practically used up and when the esti-

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mates of amounts of iron ore on hand can be readily and accurately made. When many thousands of tons of iron ore are stacked up in the yards it is almost impossible by measurement, owing to the difference in weight, to ascertain the exact value of the iron ore no matter how much this may be helped by chemical sampling. It, therefore, makes for accuracy if such concerns can take their inventories when their iron ore is at the lowest.

Almost every department store in the country has its busiest time at the end of the year. They have just finished their Christmas trade and are preparing for their January sales, which open on the 2d of January. The practical result is that most of them take their inventory about February 1, just after the January sales are finished and before the spring trade begins. It is in many cases absolutely impossible for them to take an inventory on the 1st of January, therefore I presume in making their returns to the Government most of them must use estimated inventories. In this case it would also make for accuracy and certainly for the convenience of business if such corporations were allowed to choose their annual closing period themselves.

Similar considerations apply to the elevator and grain companies, especially in the northwest. They are in the middle of their busy season at December 31. Almost all of them find it advisable to wait until later in the year before taking stock and closing their business.

In the automobile business early winter is the busiest time for manufacturers. At December 31 their works are filled with half-manufactured goods and half-completed machines. If they are to ascertain their profits correctly it is almost necessary for them to wait as most of them do either until summer or autumn when they have few automobiles in process and can make up their inventory largely from raw material, the prices of which can be readily ascertained, and from fully manufactured machines. Many of them have in the busy season millions of dollars' worth of half-manufactured goods. If this has to be estimated for inventory purposes at that time wide errors are apt to arise.

Similar remarks apply to most of the agricultural implement makers of the country. Winter and early spring are their busiest times for manufacture, and it is often a hardship if they have to shut down their works and take inventory December 31.

In the lumber industry it is in many cases impossible to take an inventory in the depth of winter. The weather in many instances makes this physically impossible. The result is that according to the different climate in various parts of the country lumber companies take their inventories at varying seasons, some of them in summer and others later in the year. The arbitrary closing on December 31 in this industry works hardships in many parts of the country.

As regards railroads, there is a curious anomaly. The present corporation tax compels the railroads to close their year December 31, whereas the older authority of Interstate Commerce Commission has insisted upon June 30 being the time of closing for railroads. Much opposition arose against the Interstate Commerce Commission on this point, but in the past few years the commission has insisted upon railroads closing uniformly on June 30, which practice is now universal among railroads.

Express companies are in the same class as railroads. It would therefore appear that these two industries have to conform to two different governmental bodies. So far as I have learned no final decision has as yet been given as to which of them they have to obey. It would appear advisable to have uniformity in this respect.

The above instances are merely given as illustrations of a few of the classes of activities that are hampered by an arbitrary closing on December 31. In favor of allowing corporations, under proper regulation, to close their years at the period that suits them individually, it should be urged that thereby corporations will be saved much annoyance and large sums of money and that more accurate profits will be arrived at when the true inventories can be taken than when annual accounts are made upon estimated inventories of December 31.

The corporation tax is collected by the Government at a less expense than any other of our methods of taxation. It would seem that in levying this tax the Government should not make it a hardship on the people that pay it, but should take every reasonable means to have it paid with the least possible inconvenience and expense being imposed upon those who furnish this revenue for the Government.

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FEDERAL CORPORATION TAX.

BRIEF ON BEHALF OF THE MANUFACTURERS' MUTUAL FIRE INSURANCE CO., RHODE ISLAND MUTUAL FIRE INSURANCE CO., STATE MUTUAL FIRE INSURANCE CO., MECHANICS' MUTUAL FIRE INSURANCE CO., ENTERPRISE MUTUAL FIRE INSURANCE CO., AND AMERICAN MUTUAL FIRE INSURANCE CO.

In the matter of House bill 28804, Sixty-second Congress, third session (by Mr. O'Shaunessy), to amend the second paragraph of section 38 of the act of August 5, 1909, so as to exempt unabsorbed premiums returned to policyholders from the Federal corporation tax.

I. QUESTIONS PRESENTED.

On August 5, 1909, President Taft affixed his signature to the tariff act of that date, by section 38 whereof an excise tax was imposed on corporations therein enumerated, measured by a percentage of net income. That law never contemplated the imposition of an excise tax on the unabsorbed premium deposits returned by mutual fire insurance companies to the policyholders on the termination of policies. Notwithstanding this fact, the Commissioner of Internal Revenue had insisted on imposing such taxes on such unabsorbed premiums, and the courts inferior to the Supreme Court of the United States have held that they are not taxable, and the Commissioner of Internal Revenue insists on his ruling until the Supreme Court of the United States decides to the contrary. In order to settle the question for all time and as legislation is better and cheaper than litigation, it is submitted the error should be corrected by legislation of the character contained in House bill 28804, Sixty-second Congress, third session, by Mr. O'Shaunessy, introduced February 19, 1913, or as found in section 120 of the act of June 30, 1864, and of the act of July 12, 1866.

II. A STUDY OF THE LEGISLATIVE HISTORY OF THE CORPORATION TAX ACT OF AUGUST 5, 1909, SHOWS THAT IT WAS NEVER INTENDED TO MEASURE THE EXCISE CORPORATE TAX ON UNABSORBED PREMIUMS OR PREMIUM DEPOSITS OF MUTUAL FIRE INSURANCE COMPANIES RETURNED TO POLICYHOLDERS ON THE TERMINATION OF POLICIES.

On June 16, 1909, President Taft sent a special message to the first session of the Sixty-first Congress (S. Doc. No. 98, p. 2), wherein he said, among other things:

"I therefore recommend an amendment to the tariff bill imposing upon all corporations and joint-stock companies for profit, except national banks (otherwise taxed), savings banks, and building and loan associations, an excise tax measured by 2 per cent on the net income of such corporations."

On June 29, 1909 (vol. 44, Congressional Record, 61st Cong., 1st sess., p. 3935) Senator Aldrich introduced a measure modeled on the lines recommended by President Taft. This became (in somewhat changed language) section 38 of the tariff act of August 5, 1909. So much of the second paragraph thereof as introduced by Senator Aldrich pertinent to this inquiry is as follows:

"Second. Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint-stock company or association, or insurance company from all sources (first) all the ordinary and necessary expenses actually paid within the year out of income in the maintenance and operation of its business and properties; (second) all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies the sums required by law to be carried to premium reserve fund; (third) interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the paid-up capital stock of such corporation, joint stock company or association, or insurance company, outstanding at the close of the year; (fourth) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof; (fifth) all amounts received by it within the year as dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies subject to the tax hereby imposed."

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We will come to see that subparagraph second of said paragraph second was somewhat changed in the engrossed act as actually signed by President Taft, August 5, 1909, as follows:

[Language Aldrich amendment.]

Second. All losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies the sums required by law to be carried to premium reserve fund.

[Language of act as signed by President Taft.]

Second. All losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies the sums other than dividends, paid within the year on policy and annuity contracts and the net addition, if any, required by law to be made within the year to reserve funds.

It will be noticed that the items to be deducted were enlarged in the act as engrossed and signed by President Taft August 5, 1909, over the deductions enumerated in the Aldrich amendment to the tariff bill as offered by him June 29, 1909. It will also be noticed that the act as engrossed and signed by President Taft refers broadly to "reserve funds" while the Aldrich amendment is limited to "premium reserve fund."

It is quite apparent that Congress never contemplated the imposition of a tax measured by unabsorbed premiums of mutual fire insurance companies returned to policyholders from the classification of insurance companies given by Senator Cummins (vol. 44, Cong. Record, 61st Cong., 1st sess., p. 3981):

"There are three general kinds of insurance companies: First, the old-line companies, which do business under what is known as the 'legal-reserve plan'; that is, they collect enough from their policyholders to lay aside a legal reserve, which, if the policy be continued according to its terms, will pay out when the event happens against which the insurance is written. These old-line companies are of two sorts: one sort has capital stock and one sort has not. Then, we have another kind of insurance companies, known as 'assessment insurance companies,' that collect from time to time for the losses or for the payment of policies as they mature. Then, of course, there is another kind that insures against a particular event, such as accidents or the like."

Senator Cummins, therefore, had in mind only "assessment insurance companies" and did not take into consideration the method of a fire insurance company where a premium deposit is made, irrespective of the term of the policy, said premium deposit being the same for a one-year policy, a two-year policy, a three-year policy, a four-year policy, or a five-year policy from which premium deposit losses and expenses are deducted as they occur, month by month, and the balance left unabsorbed on the termination of the policy returned to the policyholder.

In the case of factory mutuals (such as those on whose behalf this brief is presented) the premium is simply a deposit proportionate to the sum insured and this deposit is the same in amount whether the policy is written for one year, two years, three years, four years, five years, or any other term, and under the by-laws of such companies there exists a contract obligation to return at the termination of a policy all the premium deposit which has not become absorbed by losses and expenses.

Confusion has come from confounding different kinds of insurance. The principles and methods of life insurance differ fundamentally from those of fire insurance. In fire insurance, the methods of stock companies differ widely from those of the mutual companies. The methods of dwelling-house mutuals differ materially as to premiums or premium deposits from those of the factory mutuals (such as those on whose behalf this brief is presented).

That in life insurance as well as fire insurance there are dividends properly so called, meaning profits and dividends improperly so called, meaning sums returned to policyholders, is apparent from the letter of Mr. Frederick Frelinghuysen, president of the Mutual Benefit Life Insurance Co. of Newark, N. J., found in the Congressional Record (vol. 44, Cong. Record, 61st Cong., 1st sess., July 2, 1909, pp. 4020-4021), as follows:

"When such mutual life insurance companies are said to pay dividends you, of course, are aware that the so-called 'dividends' are merely a return to the policyholder of such premium charged or collected as has been found to be superfluous—to have been saved by the economy of the management of the company. To impose this tax means that the provision these modest people are making for their families when the

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insured is no longer able to provide for them, is to be assessed annually 2 per cent, for such return premium or dividends are arrived at in very much the same way as the balance of income is reached by this proposed law on which the tax is so laid."

It will be noticed that the Aldrich amendment as offered by him June 29, 1909, allowed no deduction for moneys returned to policyholders. The act as engrossed and signed by President Taft August 5, 1909, broadly allows a deduction for all sums returned to policyholders, which, of course, would include unabsorbed premiums. These unabsorbed premium deposits so returned are (often) improperly called "dividends." There follows in the wording of the act an exception as to "dividends" and it must be assumed that Congress used this word in its proper sense as meaning "profits." In other words, it was intended to measure the tax on net income; "dividends" in the way of profits, when used in its proper sense, is only net income.

III. ATTITUDE OF THE COMMISSIONER OF INTERNAL REVENUE.

On December 16, 1911, Hon. Royal E. Cabell, Commissioner of Internal Revenue, handed down Treasury Decision 1743 (vol. 14, Treasury Dec., Internal Revenue, p. 134). In this opinion the Commissioner of Internal Revenue stated the following to be the contention of the insurance companies:

"First. That dividends declared by mutual and participating companies are not dividends in the commercial sense of the word, but are simply refunds to the policyholder of a portion of the overcharge collected from such policyholder at the time the annual premium of the policy contract is collected, which overcharge is merely held in trust by the company issuing the policy and annually or at stated periods all or a portion thereof is returned to the person holding the policy."

Having thus put the contention, Mr. Cabell answered it in the negative and denied the contention of the insurance companies and declared that the tax could be measured on the unabsorbed premium.

An examination of this opinion shows that the Commissioner of Internal Revenue had in mind life insurance companies and not the unabsorbed premiums of mutual fire insurance companies, such as those returned by factory mutual insurance companies on the termination of policies.

A further examination of the opinion discloses that the conditions discussed by the Commissioner of Internal Revenue have no counterpart in the case of factory mutual fire insurance companies, which do not advertise and which make no false or misleading statements as to the character of the unabsorbed premiums returned to policyholders. The Commissioner of Internal Revenue had in mind sums returned "annually" or at "stated periods," while in the case of factory mutual fire insurance companies the unabsorbed premiums are returned whether the policy runs one day, one month, three months, nine months, twelve months, a year and one month, two years and three months, four years and seven months, or any other time.

On the day previous, to wit, December 15, 1911, he handed down Treasury Decision 1742, paragraph 79 whereof (Vol. 14, Treasury Decisions, Internal Revenue, p. 130) is as follows:

"79. Dividends declared by insurance companies are not deductible from gross income under the guise of rebates or otherwise, and such dividends when applied to the payment of renewal premiums, or to shorten the endowment or premium-paying period, or applied to purchase paid-up additions and annuities, must be considered and accounted for as income."

What has been said as to Treasury Decision 1743 is applicable to Treasury Decision 1742, above quoted.

IV. THE COURT DECISIONS.

On March 13, 1911, the Supreme Court of the United States handed down its opinion in *Flint v. Stone Tracy Co.* (220 U. S., 107), sustaining the constitutionality of the corporation excise tax. The opinion of Mr. Justice Day is a scholarly analysis of the act and expounds the general intent to measure the tax by a percentage of the net income calculated in the manner set forth in the act.

That unabsorbed premiums returned by mutual insurance companies to its policy holders are not to be used in measuring the tax and are to be deducted from gross income, was held by District Judge Cross, United States District Judge for the District of New Jersey, July 29, 1912, in *Mutual Benefit Life Insurance Co. v. Herold* (198 Fed. Rep., 199). The second proposition of the syllabus is as follows:

"Corporation Tax Act (Act Cong. Aug. 5, 1909, c. 6, 36 Stat., 112, U. S. Comp. St. Supp., 1911, p. 946), section 38 imposes an excise tax on insurance companies equivalent

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to 1 per cent on the entire net income above \$5,000 received by it from all sources during the year, exclusive of amounts received by it as dividends on stock of other corporations, etc., subject to the tax, such income to be ascertained by deducting all losses sustained and not compensated by insurance or otherwise, including a reasonable allowance for depreciation and sums other than dividends paid within the year on policy and annuity contracts, and the net addition, if any, required by law to be made within the year to reserve funds. *Held*, That the word 'dividends' was used in such act in its popular sense as representing profits, and that so-called dividends of a mutual company doing business on the level-premium plan, consisting merely of the portion of the loading of the premium charged in excess of the cost of insurance and returned annually to the policy holders after the first year, so far as the same were used to reduce subsequent premiums, were not 'income * * * received,' and were, therefore, not subject to taxation. Such rule, however, does not apply to a 'dividend' declared in the case of a full-paid participating policy, wherein the policy holder has no further premium payments to make, which dividend constitutes a participation in the profits and income of the invested funds of the company."

Judge Cross entered into a learned discussion of the whole subject (between pp. 200 and 212, inclusive), citing English, Federal, and State court cases in support of his deductions.

This was unanimously affirmed by the United States Circuit Court of Appeals for the Third Circuit in case No. 1693 (between the same parties), the opinion being concurred in by Circuit Judges Gray, Buffington, and McPherson. In the course of its opinion the Circuit Court of Appeals said:

"But we need not discuss the subject; that duty has been performed by Judge Cross with such fullness and ability that we can not do better than adopt his opinion. The case in the District Court is reported in 198 Fed., at page 199, and the discussion we refer to extends from page 200 to page 212, inclusive."

The case of factory mutual fire insurance companies (such as those on whose behalf this brief is presented) is even more plain. By their by-laws, their books of account, and all their daily practices, it is plain that their so-called "dividends" are merely the return of that portion of a deposit unabsorbed by expenses and losses, without regard to the term of such policies.

V. GENERAL ECONOMIC ASPECT OF THE FIRE INSURANCE PROBLEM.

As preliminary to a discussion of the concrete question presented in this brief, it will be well to take a bird's-eye view of the general economic aspect of the fire insurance problem in the United States, particularly since the companies now seeking relief were the pioneers and chief exponents of the methods of scientific insurance.

The losses by fire in the United States for the year 1910 amounted to \$214,003,300, while in 1875 the fire losses amounted to but \$78,102,285 (Statistical Abstract of the United States, 1911, at p. 616).

Mr. George Otis Smith (through Mr. Herbert M. Wilson and Mr. John L. Cochrane), in his capacity as Director of the United States Geological Survey, Department of the Interior, issued in 1910, Bulletin 418 on "The Fire Tax and Waste of Structural Materials in the United States." This contains much valuable information and extracts therefrom are added hereto as Exhibit "A."

Freitag in his work on Fire Prevention and Fire Protection (5th ed., 1912) says (pp. 1-2):

"1. That the annual fire losses in the United States have reached proportions so alarming as to make this question one of the most vital problems before the American people to-day.

"2. That our annual fire waste resulting from the burning of buildings and contents, added to the wide-spread destruction of our forests by fire, is undoubtedly the greatest obstacle to be overcome by those who believe in any rational plan for the conservation of our national resources.

"3. That such losses in buildings and contents can be very materially reduced, as is clearly shown by the experience of those European nations who have attacked the problem at its proper source.

"4. That the people of the United States have heretofore relied, for immunity from the danger of fire losses, upon elaborate and expensive systems of 'fire fighting,' viz., our very efficient urban (if very deficient suburban) fire departments.

"5. That such city fire departments while probably the best in the world in both apparatus and personnel, are not preventing the steady growth of our losses by fire.

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"6. That insurance is not the solution of the problem, but that, on the other hand, the very institution or business of fire insurance is threatened with extinction unless radical changes are soon brought about in the building of our large cities.

"7. That 'slow-burning construction' or 'mill construction,' while neither ideal nor equal to fire-resisting construction, is admirable under limitations of cost and adaptability, especially if used with auxiliary equipment; but that the differences in cost between mill construction and thoroughly fire-resisting construction are fast disappearing, and that by the time the latter becomes at all universal, the former will undoubtedly cost quite as much as more efficient methods.

"8. That the only possible solution of our national fire waste resulting from the burning of buildings and contents (forest fires being without the scope of this treatise), lies in the universal adoption of 'fire prevention' and 'fire protection'—as has been so successfully done in Europe—embracing precautionary measures to prevent fires, and adequate handling of incipient fires, i. e., the confining and control of fires independent of departmental work so as to reduce losses to a minimum."

Freitag in the same work (at p. 3) sums up the fire losses of the United States as follows:

"The total value of property in the United States which has been destroyed by fire during the 35 years enumerated in the above table, amounts to almost \$5,000,000,000 and as an amount practically equal to the fire loss must also be charged to premiums paid and to the maintenance of fire protection—as will be pointed out in more detail in a later paragraph—a grand total of \$10,000,000,000 results as the fire tax on the nation for 35 years."

The part that fire insurance companies play in the economic fiber is thus stated by Kitchin in the Principles and Finance of Fire Insurance (1904), at page 32, as follows:

"Fire insurance companies are merely the machines by which the inevitable losses of fire are distributed so as to fall as lightly as possible on the public at large."

These "machines" (as they are called by Kitchin) fall into one or the other of two classes, thus differentiated by Kitchin at page 30 as follows:

"The main difference between these two methods of providing insurance protection is simple. The joint stock companies aimed at charging a definite scale of premiums for the indemnity against loss by fire and the insured had no further liabilities. The mutual associations aimed at charging small premiums and a considerable deposit which was liable for claims and, if the accumulated funds of the associations were insufficient, then the insured might be called upon for further contributions toward meeting the fire losses."

Insurance premium is in reality a tax. This was well stated by Freitag in his work on Fire Prevention and Fire Protection (5th ed., 1912), at page 57, as follows:

"Insurance is a tax. While fire insurance is undoubtedly an institution of great benefit in that fire losses are distributed over an entire community or over the country at large instead of upon individuals, nevertheless the consequent pro rata tax upon the individual still remains.

"It is a singular commentary upon American acuteness that the citizens of the United States do not yet discern that fire insurance is a tax, shifted through the buying and selling processes upon the entire community; that every fire hazard tends to increase this tax, and that every element of fire prevention tends to lessen it. Merchants and manufacturers must pass along the cost of insuring their goods to the people who consume those goods, however this tax is concealed in the selling price, and the amount of rent which every man pays for office or tenement is affected by the cost of insuring the building occupied."

That the subject of fire losses and their prevention is a live, burning national problem is shown by House joint resolution No. 97, introduced into the first session of the Sixty-second Congress on May 12, 1911, by Congressman Jackson, and printed herewith as Exhibit B, and by House resolution No. 357, introduced into the second session of the Sixty-second Congress on January 4, 1912, by Congressman Jackson, and printed herewith as Exhibit C. The recitals of these resolutions show that fire prevention is a burning question of the day and that the reckless manner of charging and collecting large premiums and devoting same to the payment of big fire losses encourages fires and discourages fire prevention. A study of these resolutions is enlightening and in harmony with the best economic thought upon the subject.

That "waste" should be prevented was well expressed by President Wilson in his inaugural address, March 4, 1913 (Cong. Record, vol. 50, No. 1, p. 3), as follows:

"With riches has come inexcusable waste. We have squandered a great deal of what we might have used, and have not stopped to conserve the exceeding bounty

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of nature, without which our genius for enterprise would have been worthless and impotent, scorning to be careful, shamefully prodigal as well as admirably efficient."

VI. SOME GENERAL OBSERVATIONS AS TO MUTUAL FIRE INSURANCE COMPANIES AND THE PART THEY ARE PLAYING IN FIRE PREVENTION.

The ordinary purpose of fire insurance is indemnity; the great purposes of insurance by mutual fire insurance companies of the character of those in whose behalf this brief is presented, are:

(1) Fire prevention accomplished by (a) good water supply, (b) good fire pumps, (c) fire hydrants, (d) hose attachments, (e) automatic sprinklers, (f) inspection of risks, and (g) buildings constructed to minimize possibilities of fire and easy control in case of fire.

(2) Reducing premiums to actual cost and thus minimizing the insurance tax which in fact a fire insurance premium is.

By fire prevention not only is one's own property saved from economic waste, but spread of fire to neighbors is retarded; loss of use and occupancy is prevented; employees are not thrown out of employment; lives are saved; cost of maintenance of fire departments is reduced and general taxation decreased.

By reducing the cost of insurance, the money saved thereby can be devoted to fire prevention instead of to fire indemnity.

This great work of fire prevention and reducing the insurance tax to cost was originated many years ago by Zachariah Allen, of Providence, R. I. The pioneer company in the work was the Manufacturers' Mutual Fire Insurance Co., organized in Providence, R. I., in 1835. This was followed by the Rhode Island Mutual Fire Insurance Co., organized in Providence, R. I., in 1848, and by the Boston Manufacturers' Mutual Fire Insurance Co., organized in Boston, Mass., in 1850. Other similar companies were organized and these companies on December 31, 1910, were carrying policies to the amount of \$2,200,000,000. To Mr. Edward Atkinson and Mr. John R. Freeman is due great credit in perfecting the work of these companies.

VII. THE METHODS OF THE FACTORY MUTUAL FIRE INSURANCE COMPANIES.

It is important at the outset to clearly understand the great difference in scope and method of operation of factory mutual fire insurance companies from that of the joint-stock fire insurance companies, and also from that of the better-known mutual fire insurance companies which cover dwelling houses, farm and live-stock risks. This understanding is necessary to make clear the necessity of the factory mutual company requiring a premium deposit at the beginning of a policy, irrespective of its term, which is from 10 to 20 times as great as experience shows necessary to meet the losses and expenses of the average year.

Their work relates more to the study and development of fire prevention by means of expert engineering inspection than to mere indemnity, which is insurance proper, and the 19 factory mutual companies spends annually about a third of a million of dollars upon their inspection departments, which are devoted wholly to fire-prevention work.

It is regarded as of prime importance by the managers and directors of these companies (who are all of them practical manufacturers elected by the policyholders from among those whose properties are insured) that there should always be sufficient funds in the treasury to meet the worst conceivable conflagration in any of the industrial districts where they insure, as, for example, a sweeping fire along the water-power canal at Lowell, Mass., or in the factory district of Philadelphia, Pa., and since these companies have no capital stock upon which to draw in case of great disaster, the more efficient method is followed of having each concern pay in at the beginning of its term of insurance a sum proportionate to the amount at risk, and to the degree of hazard which shall be sufficient to meet the worst conceivable series of widespread fires.

These companies started in a quiet way more than 75 years ago, and by means of careful records and broad experience have established the present rate of premium deposit which is regarded as not materially larger than is demanded by the standard companies of absolute solvency in the face of great disaster, and it may be remarked incidentally that although their charters and by-laws give authority for making an assessment in case of extraordinary losses, this authority has never been evoked during an experience of more than 75 years.

To sum up, the chief reasons for the large premium deposit of the factory mutuals are:

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First. The fact that, as compared with the stock fire insurance companies, they insure relatively a comparatively small number of risks.

Second. That in many parts of the United States their risks are in adjoining groups, so that it is desirable to have funds in hand sufficient to meet a fire that might destroy more than one factory.

Third. Prompt payment of even the largest loss is desirable in order that the manufacturer may be in position to promptly meet obligations as well as to reestablish his factory, and for this purpose cash on deposit or securities of a quickly convertible nature are plainly far better than the slow process of invoking an assessment. For example, the six companies which present this brief had on hand on the 1st day of January, 1913, cash and quickly convertible securities of a net market value of \$6,684,750, and were insuring 2,800 factories scattered throughout the United States and covering \$813,813,194 of insurance.

VIII. THE LOW COST OF FACTORY MUTUAL FIRE INSURANCE.

Not only does the policyholder get his insurance at actual cost, but in return therefor he secures not merely fire indemnity, but the most thorough and scientific inspection, which is one of the greatest instrumentalities for fire prevention.

On an average an insured makes a premium deposit of \$7.56 for each \$1,000 mentioned in the policy. The Factory Mutual Fire Insurance Co. invests this money and on an average earns 39 cents for the policyholder, making a total of premium deposit and income from investment of \$7.95. This was expended as follows in the calendar year 1912:

	Per \$1,000 insured.
(a) Fire and sprinkler losses.....	\$0.38
(b) Administration expenses.....	.13
(c) Inspection expenses.....	.16
(d) All taxes.....	.25
Total losses and expenses.....	.92

The unabsorbed portion of the premium returned to a policyholder at the expiration of the year 1912 amounted to \$7.03, for a one-year term, which is 93 per cent of the original deposit, making the insurance on an average cost the insured but 53 cents per thousand dollars for one full year of insurance.

IX. THE EFFECT OF THE RULING OF THE COMMISSIONER OF INTERNAL REVENUE IS TO PLACE AN INEQUITABLE BURDEN ON INDUSTRY AND DESTROY PRESENT EXISTING COMPETITIVE CONDITIONS.

The tax as now assessed under the ruling of the Commissioner of Internal Revenue imposes upon the Factory Mutual Insurance Co. 100 times as great an excise tax as it does upon the stock fire insurance company for doing precisely the same business. These factory mutual companies are all of them domestic corporations organized within the United States and contributing greatly to its industrial and economic prosperity; whereas the competing stock insurance companies upon which the far smaller tax is assessed are many of them English, German, or French corporations.

Although the rate of premium deposit in the factory mutual generally averages about 10 times as great for a one-year policy as the premium charged by the competing stock company, the difference in the amount of Federal corporation tax assessed is in far greater ratio, and in fact the factory mutual pay one hundred fold greater tax to the United States than the English, German, French, or American stock company does for insuring the identical factory to an identical amount, and in a few cases where the stock company and the factory mutual each carries half the insurance on some great plant, it will be found that the factory mutual is actually taxed 100 times as much upon its half as the stock company is upon the other half. This fact of itself should make it plain that the word and intent of the statute have been erroneously interpreted and applied.

To make this fact more plain the following demonstration is offered:

As already stated, these factory mutual companies, as a factor of safety against unusual conflagration, take at the beginning of a policy a premium deposit from 10 to 20 times as great as experience shows will be needed to pay the fire losses and all other expenses of the ordinary year.

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To be more specific, their average premium deposit for \$1,000,000 of insurance is \$7,560.

Taking a one-year term as the simplest case, the experience of many years shows that at the end of this year, after paying all losses and expenses pro rata to the premiums, the unabsorbed portion to be returned to the policy holders will be about 93 per cent of the original sum of \$7,560. Ninety-three per cent equals \$7,030.80, which, being deducted from the original deposit, leaves as the net cost \$529.20 for \$1,000,000 of insurance for the term of one year.

Thus under the interpretation of the commissioner, who classes this deposit return as a "dividend" of profits, these factory mutual companies are called upon to pay an excise tax for the privilege of doing \$1,000,000 of insurance business approximately 1 per cent on this so-called dividend of \$7,030.80, which makes a tax of \$70.30.

On the other hand, the English, German, French, or American stock insurance companies, competing with the factory mutual for precisely the same million dollar risk, would charge a premium for a one-year term of about \$700, which is net and with no return, and should be compared with the net factory mutual cost of \$529.20.

But stock-company tax is only upon the profits left out of this \$700 after paying all losses and expenses.

Some of the very largest, most active, and most progressive of these stock companies have published statements to the effect that 6 per cent of annual profit on their annual premium income is a fair long-term average insurance profit, and a study of the sworn returns to the State insurance commissioners shows the average decidedly less than 10 per cent.

This would give for profit on the \$700 premium, 6 per cent on \$700.....	\$42. 00
Upon this the 1 per cent Federal tax would be only.....	. 40
Taking a most liberal view, if the stock insurance profits were 10 per cent upon its premium income, the Federal tax for insuring a \$1,000,000 factory would be only.....	. 70

instead of \$70.30, levied upon these companies for precisely the same business privilege.

The ratio of \$70.30 to \$0.70 is about as 100 to 1.

This may be shown in parallel columns as follows:

Corporation tax assessed on stock companies for \$1,000,000 of insurance.....	\$0. 70	Corporation tax assessed on factory mutual insurance companies for \$1,000,000 of insurance.....	\$70. 30
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The ratio of \$70.30 to \$0.70 is about 100 to 1. In other words, the factory mutual insurance companies have levied on them a tax 100 times as heavy as on the stock companies.

This is a very serious burden, and these six companies have already paid as Federal corporation tax over \$100,000 more than their competitors would have been asked to pay on precisely the same business.

Competition through these factory mutual fire insurance companies should be encouraged, and certainly it should not be discouraged by placing upon them a burden of taxation one hundred fold greater than that which their competitor, the stock companies, are under. These mutual companies have served the economic interests of the United States well, first, as leaders in the movement for scientific fire prevention, and, second, in presenting to all manufacturers constantly a concrete illustration of the actual cost of insurance when safeguards were made a first consideration. They have thus served as the great regulators of the price of insurance to the manufacturing public. When they began the ordinary cost of insuring a cotton factory, woolen mill, or paper mill was more than 10 times the cost of insuring similar properties to-day, and they have now extended their field to one line of industry after another, as, for example, to rubber-manufacture and to woodworking establishments of the better grades. There has been a great reduction in price to the insured whether he placed the risk in the stock insurance company or factory mutual insurance companies.

One of the greatest burdens which these mutual companies have to bear to-day is that of taxation and a discrimination, as already explained, resulting from a failure to realize that so-called dividends are in fact merely the return of a deposit.

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X. ONE REMEDY BY ENACTING A LAW SIMILAR TO O'SHAUNESSY HOUSE BILL 28804
(62D CONG., 3D SESS.).

One remedy to bring the provisions of the corporation-tax act of August 5, 1909 (vol. 36 U. S. Stat. L., p. 11, ch. 6; sec. 38, at p. 112) into harmony with the general provisions of measuring the tax by a percentage of real net income will be the enactment of O'Shaunessy House bill 28804 (62d Cong., 3d sess.). A copy of this bill is appended hereto as Exhibit D, giving the exact language of section 38 with the new matter added thereto inclosed in heavy brackets.

XI. SECOND REMEDY BY ENACTING A LAW WITH THE PROVISIO WHICH WAS CONTAINED
IN SECTION 120 OF THE ACT OF JUNE 30, 1864, REENACTED IN THE ACT OF JULY 12, 1866.

A second remedy to bring the provisions of the corporation-tax act of August 5, 1909 (vol. 36, U. S. Stat. L., p. 11, ch. 6; sec. 38, at p. 112) into harmony with the general provisions of measuring the tax by a percentage of real net income will be the enactment of a statute adding a proviso to section 38 to the effect that unabsorbed premiums returned by mutual fire insurance companies to their policy holders shall not be considered as dividends within the meaning of that term as found in section 38.

The claimed ambiguity existing in section 38 of the act of August 5, 1909 (vol. 36, U. S. Stat. L., p. 11, ch. 6, at p. 112), can be removed in the same manner that the same was removed in the act of June 30, 1864, and the amendatory act of July 12, 1866. This may be illustrated by quoting from said act.

The act of June 30, 1864, is found in volume 13, United States Statutes at Large, page 223, and section 120 thereof, at page 283 thereof, and is reprinted in Senate Report, volume 7, No. 1123, internal-revenue laws, Fifty-fifth Congress, second session, at page 179. Said section 120, after imposing a tax of 5 per cent on all dividends, in scrip or money, payable to policyholders as part of the earnings, income, or gain of an insurance company, whether stock or mutual, contains the following proviso, to wit:

"*Provided*, That the duty upon the dividend of life insurance companies shall not be deemed due or to be collected until such dividends shall be payable by such companies, nor shall the portion of premiums returned by mutual life insurance companies to their policyholders be considered as dividends or profits under this act."

The act of June 12, 1866, is found in volume 14, United States Statutes at Large, page 98, and section 120 thereof, as amended at page 138 thereof, and is reprinted in Senate Report, volume 7, No. 1123, internal-revenue laws, Fifty-fifth Congress, second session, at page 271. Said section 120 as thus amended, after imposing a tax of 5 per cent on all dividends in scrip or money, payable to policyholders as part of the earnings, income, or gain of an insurance company, whether stock or mutual, contains the following proviso, to wit:

"*Provided*, That the tax upon the dividends of life insurance companies shall not be deemed due until such dividends are payable; nor shall the portion of premiums returned by mutual life insurance companies to their policyholders, nor the annual or semiannual interest allowed or paid to the depositors in savings banks or savings institutions, be considered as dividends."

At the time of the passage of these act in 1864 and 1866 factory mutual fire insurance companies carried less than \$100,000,000 of insurance, while to-day they carry the enormous sum of \$2,200,000,000.

These figures will show the importance of a similar proviso in the year 1913, which might not have been so important in 1864 or 1866, when the amount of such insurance was only 5 per cent of the amount it is to-day.

XII. IN CONCLUSION.

As the Ways and Means Committee is about to enter upon a consideration of an equitable readjustment of the burdens of taxation, we commend the foregoing to the most serious consideration of the members of that committee.

Respectfully,

MANUFACTURERS' MUTUAL FIRE INSURANCE CO.,
RHODE ISLAND MUTUAL FIRE INSURANCE CO.,
STATE MUTUAL FIRE INSURANCE CO.,
MECHANICS' MUTUAL FIRE INSURANCE CO.,
ENTERPRISE MUTUAL FIRE INSURANCE CO.,
AMERICAN MUTUAL FIRE INSURANCE CO.,

By LITTLEFORD, JAMES, BALLARD & FROST, Attorneys.

WASHINGTON, D. C., March 5, 1913.

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EXHIBIT A.

[Department of the Interior, United States Geological Survey; George Otis Smith, Director.]

BULLETIN 418. THE FIRE TAX AND WASTE OF STRUCTURAL MATERIALS IN THE UNITED STATES.

[By Herbert M. Wilson and John L. Cochrane.]

(From pp. 6-7.)

SCOPE AND GENERAL RESULTS OF INQUIRY.

This inquiry covered not only the value of the property destroyed by fire, but also the cost of maintaining fire departments, the amount of insurance premiums paid less the amounts returned, the cost of protective agencies, the additional cost of water supplies, etc.

The investigation disclosed the fact that the total cost of fires in the United States in 1907 amounted to almost one-half the cost of new buildings constructed in the country for the year. The total cost of the fires, excluding that of forest fires and marine losses, but including excess cost of fire protection due to bad construction and excess premiums over insurance paid, amounted to over \$456,485,000, a tax on the people exceeding the total value of the gold, silver, copper, and petroleum produced in the United States in that year. The cost of building construction in 49 leading cities of the United States reporting a total population of less than 18,000,000 amounted, in 1907, to \$661,076,286, and the cost of building construction for the entire country in the same year is conservatively estimated at \$1,000,000,000. Thus it will be seen that nearly one-half the value of all the new buildings constructed within one year is destroyed by fire. The total fire cost in this country is five times as much per capita as in any country of Europe. This fire cost was greater than the value of the real property and improvements in any one of the following States: Maine, West Virginia, North Carolina, North Dakota, South Dakota, Alabama, Louisiana, Montana.

The actual fire losses due to the destruction of buildings and their contents amounted to \$215,084,709, a per capita loss for the United States of \$2.51. The per capita losses in the cities of the six leading European countries amounted to but 33 cents, or about one-eighth of the per capita loss sustained in the United States. In addition to this waste of wealth and natural resources, 1,449 persons were killed and 5,654 were injured in fires.

(From pp. 12-13.)

Mr. Charles Whiting Baker, editor of the Engineering News, New York, in an address before the national engineering societies on "Conservation of natural resources," March 24, 1909, said:

"The buildings consumed, if placed on lots of 65 feet frontage, would line both sides of a street extending from New York to Chicago. A person journeying along this street of desolation would pass in every thousand feet a ruin from which an injured person was taken. At every three-quarters of a mile in this journey he would encounter the charred remains of a human being who had been burned to death."

The fire losses are summarized in Table 1.

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TABLE 1.—*Fire losses in the United States for 1907.*

[Statistics gathered by the United States Geological Survey.]

	Total.	Urban.	Rural.
Total fire loss.....	\$215,084,709	\$107,093,283	\$107,991,426
Buildings.....	109,156,894	50,173,625	58,983,269
Contents.....	105,927,815	56,919,558	49,008,157
Brick, etc., buildings.....	68,425,267	48,908,744	19,516,523
Buildings.....	31,092,687	19,816,474	11,276,213
Contents.....	37,332,580	29,092,270	8,240,310
Frame buildings.....	146,659,442	58,184,539	88,474,903
Buildings.....	78,064,207	30,357,151	47,707,056
Contents.....	68,595,235	27,827,388	40,767,847
Number of fires.....	165,257	105,406	59,851
Number of fires in brick, etc., buildings.....	36,140	25,297	10,843
Number of fires in frame buildings.....	129,117	80,109	49,008
Loss per capita.....	2.51	2.54	2.49

The total loss from fire in the United States during 1907, \$215,084,709, represents a waste of nearly \$600,000 for every day of the year, of \$25,000 for every hour of the day. The term "waste" is used because the fire loss is absolutely irretrievable and constitutes a tremendous drain upon the natural resources of the country. The insurance on a burned building does not bring back the property that was destroyed; it simply equalizes the loss between all others whose property is insured. And the money paid by the insurance companies does not by any means cover the total losses sustained. Some underwriters declare that from 75 to 80 per cent of all property is insured, but two State fire marshals disagree with this statement after tabulating the fire losses for their States. D. S. Creamer, the State fire marshal of Ohio, finds that but 52 per cent of the property is covered by insurance. This statement seems to be borne out by the annual report of the National Board of Fire Underwriters for 1907, which gives as the total losses paid by all companies during the year \$114,164,469.

The fire waste for the last 33 years, according to the National Board of Fire Underwriters, reached the tremendous total of \$4,484,326,831.

Fearful as it is to contemplate this great destruction of the natural resources of this country, the situation becomes more appalling when it is realized that this waste is increasing by leaps and bounds with each succeeding year. The National Board of Fire Underwriters gives the following estimates of the fire waste for the last 33 years:

TABLE 2. *Annual fire losses in the United States for 33 years, 1875-1907.*

[Compiled by the National Board of Fire Underwriters.]

Year.	Loss.	Year.	Loss.	Year.	Loss.
1875.....	\$78,102,285	1886.....	\$104,924,750	1897.....	\$116,354,575
1876.....	64,630,600	1887.....	120,283,055	1898.....	130,593,905
1877.....	68,265,800	1888.....	110,885,665	1899.....	153,597,830
1878.....	64,315,900	1889.....	123,046,833	1900.....	160,929,805
1879.....	77,703,700	1890.....	108,993,792	1901.....	165,817,810
1880.....	74,643,400	1891.....	143,764,967	1902.....	161,078,040
1881.....	81,280,900	1892.....	151,516,098	1903.....	145,302,155
1882.....	84,505,024	1893.....	167,544,370	1904.....	229,198,050
1883.....	100,149,228	1894.....	140,006,484	1905.....	165,221,650
1884.....	110,008,611	1895.....	142,110,233	1906.....	518,611,800
1885.....	102,818,796	1896.....	118,737,420	1907.....	199,383,300

In the last 33 years, therefore, as shown by Table 2, the total value of property destroyed by fire amounted to \$4,484,000,000, and the figures obtained in this inquiry

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show that it is reasonable to assume that fully as much money was spent in fire protection, making a total of almost \$9,000,000,000 in 33 years.
(From p. 20.)

EXCESSIVE COST OF MAINTAINING FIRE DEPARTMENTS.

It will be incidentally noted that fire protection involves the use of 2,000,000 tons of metal, having a value in excess of \$127,000,000, and the metal in 350,000 hydrants, having a value of \$30,000,000, all of which is wasted on account of the need of preparing to fight fires of a kind which, because of the inflammable character of building construction in this country, would develop into conflagrations without adequate water service and fire departments.

The capital invested for fire protection and the annual loss and expense on account of fire in the United States in 1907 is shown in Table 7.

TABLE 7.—*Capital invested for fire protection and annual loss and expense on account of fire in the United States, 1907.*

	Investment in construction and equipment.	Annual loss and expense.
FIRE LOSS.		
Total fire loss.....		\$215,084,709
FIRE PROTECTION.		
<i>Insurance.</i>		
Amount of fire premiums paid above amount of losses paid.....		¹ 145,604,362
<i>Waterworks.</i>		
Total cost of waterworks chargeable to fire service.....	² \$245,671,676	
Source of water supply.....	\$66,482,220	
Distributing system (2,016,927 tons of metal).....	127,236,668	
Hydrants (350,152).....	29,761,400	
Separate high-pressure fire service.....	22,191,388	
Total annual expense of waterworks chargeable to fire service.....		28,856,235
Depreciation and taxes.....	10,563,881	
Interest charge.....	³ 9,826,867	
Maintenance.....	8,465,487	
<i>Fire departments.</i>		
Total cost of fire departments.....	107,063,524	
Total annual expense of fire departments.....		48,940,845
Depreciation and taxes.....	\$4,603,731	
Interest charge.....	⁴ 4,282,540	
Maintenance.....	40,054,574	
<i>Private fire protection.</i>		
Total cost of private fire extinguishers, automatic sprinklers, etc.....	50,000,000	
Total annual expense of private fire protection ⁵		18,000,000
	402,735,200	456,486,151

¹ The amount paid by insurance companies on account of fire loss was \$114,164,469, and the amount received by them in premiums was \$259,768,831.

² This is 22 per cent of the total cost of water systems, domestic and fire service combined.

³ \$245,671,676, cost of waterworks chargeable to fire service, capitalized at 4 per cent, is equal to an annual charge of \$9,826,867.

⁴ \$107,063,524, cost of fire departments, capitalized at 4 per cent, is equal to an annual charge of \$4,282,540.

⁵ Interest on investment, cost of watchmen, etc.

COST OF PRIVATE FIRE PROTECTION.

The estimated cost of private fire protection, including capital invested in construction and equipment, aggregates about \$50,000,000, and the annual interest on this sum and the annual cost of watchmen's services amount to about \$18,000,000.

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(From pp. 21 and 23.)

THE FIRE WASTE IN EUROPEAN CITIES.

TABLE 9.—*Fire losses in six European countries.*

[Statistics gathered by the National Board of Fire Underwriters.]

Country.	Years.	Annual average.	Population, 1901.	Loss per capita.
Austria.....	1898-1902	\$7,601,389	26,150,597	\$0.29
Denmark.....	1901	660,924	2,588,919	.26
France.....	1900-1904	11,699,275	38,595,500	.30
Germany.....	1902	27,655,600	56,367,178	.49
Italy.....	1901-1904	4,112,725	32,449,754	.12
Switzerland.....	1901-1903	999,364	3,325,023	.30
Average loss per capita.....				.33

EUROPEAN AND AMERICAN FIRE LOSSES COMPARED EXCESSIVE AMERICAN FIRE LOSS.

The results obtained indicate that the total annual cost of fires in the United States if buildings were as nearly fireproof as in Europe would be \$90,000,000, and therefore that the United States is paying annually a preventable tax of more than \$366,000,000, or nearly enough to build a Panama Canal each year. The figures are set forth in Table 10.

TABLE 10.—*Comparison of loss and outlay in the United States on account of fires in 1907 with probable annual loss and expense if buildings were as nearly fireproof as in Europe.*

	Actual cost.		Probable annual loss under European conditions.	
	Total.	Per capita.	Total.	Per capita.
Loss by fire.....	\$215,084,709	.....	\$41,000,000	.....
Excess premiums over insurance paid.....	145,604,362	.....	28,000,000	.....
Annual expense of waterworks chargeable to fire service.....	28,856,235	.....	6,000,000	.....
Annual expense of fire departments.....	48,940,845	.....	10,000,000	.....
Annual expense of private fire protection.....	18,000,000	.....	5,000,000	.....
Total loss by fire.....	456,486,151	\$5.34	90,000,000	\$1.05
	215,084,709	2.54	41,000,000	.48
Annual expense of fire protection.....	241,401,442	2.82	49,000,000	.57

EXHIBIT B.

[H. J. Res. 97, 62d Cong., 1st sess.]

IN THE HOUSE OF REPRESENTATIVES, MAY 12, 1911.

Mr. Jackson introduced the following joint resolution; which was referred to the Committee on Appropriations and ordered to be printed.

JOINT RESOLUTION Providing for an investigation for the purpose of collecting statistical data relating to the loss of life and property by fire in the United States, the reasonableness of rates charged for fire insurance, and the relation of such rates to the causes of fire losses, and making an appropriation to meet the expenses thereof.

Whereas the loss of life and property by fire in this country is abnormal and is to a large extent removable by economic treatment, under suitable laws and governmental supervision; and

Whereas there is necessity for investigation of the causes of such losses by fire and the collection of statistical data relating thereto, as well as the relation to such losses of [to] rates charged for fire insurance, to the end that the people of the several States of the United States may adopt proper expedients to prevent such losses and to

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secure fire insurance at reasonable cost, as well as to promote the education of their citizenship in preventing conflagrations; and

Whereas the several States, in their efforts to deal with these problems and the regulation of fire-insurance rates, are meeting with many obstacles, in that there is no central source of information from which facts concerning the causes, number, and history of fires can be obtained, tabulated, and analyzed, and their relation to reasonable fire-insurance rates made manifest; and

Whereas the determination of reasonable fire-insurance rates for any State requires a consideration of the facts and history of fire losses in all the States, and such work will be greatly facilitated and made more perfect by a central bureau of research, which must of necessity be conducted by the Federal Government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be hereby authorized and directed to employ suitable experts and assistants and to cause an exhaustive inquiry to be made into all available facts bearing upon the loss of life and property by fire and upon the means of preventing such loss in the future. Inquiry shall also be made to show what proportion the loss of property by fire bears to the whole amount of property insured in the several States, and all other facts necessary to establish proper classifications and reasonable fire-insurance rates throughout the United States. The President is also directed to invite the cooperation of the States in the investigation by ordering the accumulation of such reports of the current experience of fire-insurance companies as the experts employed shall find necessary for the work to be accomplished. Said experts shall report to the President the findings of the analysis of the facts examined by them, to the end that the States shall be aided in making manifest the reasonableness of fire-insurance rates and the efforts to restrict fire waste. At some date within two years from the date of their appointment said experts shall make a full report of what has been found by them and shall set forth what should be done to establish a permanent bureau dealing with the problems of fire waste and the proper measurement of fire hazard for the establishment of fire-insurance rates.

SEC. 2. That the sum of two hundred and fifty thousand dollars be appropriated, from any moneys not otherwise appropriated, to pay the expenses of the inquiry provided for by this resolution.

EXHIBIT C.

[H. Res. 357, 62d Cong., 2d sess.]

IN THE HOUSE OF REPRESENTATIVES, JANUARY 4, 1913.

Mr. Jackson submitted the following resolution; which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.

RESOLUTION.

Resolved, That the Secretary of Commerce and Labor be directed, acting through the Bureau of Corporations, to make a complete investigation of the business of foreign and domestic fire insurance corporations in the United States, and to gather, compile, publish, and supply full, complete, and useful information concerning the abnormal losses of life and property by fire in the United States, the proportion such losses of property, insured or uninsured, bears to the whole amount of property insured in the United States, the rates charged for fire insurance and the means and classifications employed in fixing the same, the reasonableness thereof, and their effect, if any, in causing or preventing such losses, and all other facts and information necessary to indicate means of preventing such losses of life and property and restricting fire waste in the United States.

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EXHIBIT D.

[H. R. 28804, 62d Cong., 3d sess.]

IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1913.

Mr. O'Shaunessy introduced the following bill; which was referred to the Committee on Ways and Means and ordered to be printed.

A BILL To amend an act entitled "An act to provide revenue, equalize duties and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of section thirty-eight of an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine, be amended so as to read as follows:

"Second. Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint-stock company or association, or insurance company received within the year from all sources—first, all the ordinary and necessary expenses actually paid within the year out of income in the maintenance and operation of its business and properties, including all charges such as rentals or franchise payments required to be made as a condition to the continued use or possession of property; second, all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in case of insurance companies, [other than mutual fire insurance companies organized and operated exclusively for the mutual benefit of their members,] the sums other than dividends, [and in the case of such mutual fire insurance companies the sums, including that portion of the premium deposits unabsorbed by [such mutual fire insurance companies for]¹ losses and expenses which is returned to the insured upon the termination of policies] paid within the year on policy and annuity contracts, and the net addition, if any, required by law to be made within the year to reserve funds; third, interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the paid-up capital stock of such corporation, joint-stock company or association, or insurance company outstanding at the close of the year, and in the case of a bank, banking association, or trust company all interest actually paid by it within the year on deposits; fourth, all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the government of any foreign country as a condition to carrying on business therein; fifth, all amounts received by it within the year as dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies subject to the tax hereby imposed: *Provided*, That in the case of a corporation, joint-stock company or association, or insurance company organized under the laws of a foreign country such net income shall be ascertained by deducting from the gross amount of its income received within the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia—first, all the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States and its Territories, Alaska, and the District of Columbia, including all charges such as rentals or franchise payments required to be made as a condition to the continued use or possession of property; second, all losses actually sustained within the year in business conducted by it within the United States of its Territories, Alaska, or the District of Columbia not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies [other than mutual fire insurance companies organized and operated exclusively for the mutual benefit of their members,] the sums other than dividends, [and in case of such mutual fire insurance companies the sums, including that portion of the premium deposits unabsorbed by [such mutual fire insurance companies for]¹ losses and expenses which is returned to the insured upon the termination of policies,] paid within the year on policy and annuity con-

¹ The verbiage of the bill can be improved by omitting the words in brackets.

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tracts, and the net addition, if any, required by law to be made within the year to reserve funds; third, interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness, not exceeding the proportion of its paid-up capital stock outstanding at the close of the year which the gross amount of its income for the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia bears to the gross amount of its income derived from all sources within and without the United States; fourth, the sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof; fifth, all amounts received by it within the year as dividends upon stock of other corporations, joint-stock companies or associations, and insurance companies subject to the tax hereby imposed. In the case of assessment insurance companies the actual deposit of sums with State or Territorial offices, pursuant to law, as additions to guaranty or reserve funds shall be treated as being payments required by law to reserve funds."

Sec. 2. That the third paragraph of section thirty-eight of said act be amended so as to read as follows:

"Third. There shall be deducted from the amount of the net income of each of such corporations, joint-stock companies or associations, or insurance companies, ascertained as provided in the foregoing paragraphs of this section, the sum of \$5,000, and said tax shall be computed upon the remainder of said net income of such corporation, joint-stock company or association, or insurance company for the year ending December thirty-first, nineteen hundred and nine, and for each calendar year thereafter; and on or before the first day of March, nineteen hundred and ten, and the first day of March in each year thereafter, a true and accurate return under oath or affirmation of its president, vice president, or other principal officer and its treasurer or assistant treasurer shall be made by each of the corporations, joint-stock companies or associations, and insurance companies, subject to the tax imposed by this section to the collector of internal revenue for the district in which such corporation, joint-stock company or association, or insurance company has its principal place of business, or in the case of a corporation, joint-stock company or association, or insurance company organized under the laws of a foreign country, in the place where its principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth, first, the total amount of the paid-up capital stock of such corporation, joint-stock company or association, or insurance company outstanding at the close of the year; second, the total amount of the bonded and other indebtedness of such corporation, joint-stock company or association, or insurance company at the close of the year; third, the gross amount of the income of such corporation, joint-stock company or association, or insurance company received during such year from all sources, and if organized under the laws of a foreign country the gross amount of its income received within the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia; also the amount received by such corporation, joint-stock company or association, or insurance company within the year by way of dividends upon stock of other corporations, joint-stock companies or associations, or insurance companies subject to the tax imposed by this section; fourth, the total amount of all the ordinary and necessary expenses actually paid out of earnings in the maintenance and operation of the business and properties of such corporation, joint-stock company or association, or insurance company within the year, stating separately all charges, such as rentals or franchise payments required to be made as a condition to the continued use or possession of property, and if organized under the laws of a foreign country, the amount so paid in the maintenance and operation of its business within the United States and its Territories, Alaska, and the District of Columbia; fifth, the total amount of all losses actually sustained during the year and not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in the case of insurance companies [other than mutual fire insurance companies] the sums other than dividends, [and in the case of mutual fire insurance companies the sums including that portion of the premium deposits which is returned to the insured at the termination of policies] paid within the year on policy and annuity contracts, and the net addition, if any, required by law to be made within the year to reserve funds; and in the case of a corporation, joint-stock company or association, or insurance company organized under the laws of a foreign country all losses actually sustained by it during the year in business conducted by it within the United States or its Territories, Alaska,

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and the District of Columbia not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in the case of insurance companies [other than mutual fire insurance companies] the sums other than dividends, [and in the case of mutual fire insurance companies the sums including that portion of the premium deposits which is returned to the insured at the termination of policies] paid within the year on policy and annuity contracts, and the net addition, if any, required by law to be made within the year to reserve fund; sixth, the amount of interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the paid-up capital stock of such corporation, joint-stock company or association, or insurance company outstanding at the close of the year, and in the case of a bank, banking association, or trust company stating separately all interest paid by it within the year on deposits; or in case of a corporation, joint-stock company or association, or insurance company organized under the laws of a foreign country, interest so paid on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the proportion of its paid-up capital stock outstanding at the close of the year, which the gross amount of its income for the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia bears to the gross amount of its income derived from all sources within and without the United States; seventh, the amount paid by it within the year for taxes imposed under the authority of the United States or any State or Territory thereof, and separately the amount so paid by it for taxes imposed by the government of any foreign country as a condition to carrying on business therein; eighth, the net income of such corporation, joint-stock company or association, or insurance company after making the deductions in this section authorized. All such returns shall, as received, be transmitted forthwith by the collector to the Commissioner of Internal Revenue."

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STATEMENT OF HON. JAMES F. CURTIS, ASSISTANT SECRETARY OF THE TREASURY, BEFORE THE COMMITTEE ON WAYS AND MEANS, SATURDAY, FEBRUARY 8, 1913.

The CHAIRMAN. You may follow your own line in giving us your suggestions. I would like you to state the number of the paragraphs as you go along.

Mr. CURTIS. What I am about to say are my personal views, though they carry the concurrence of various persons within the department who have studied the problems involved. The suggestions, however, do not represent the Secretary's views, either officially or unofficially, as he has had no opportunity of going into the details before submissions.

I have a number of suggestions to make regarding several subsections of section 28. I will first give you a sort of general outline of some of our difficulties and then refer specifically to the paragraphs that cause them.

Of course, in the first place, what we try to do is to collect as much of the revenue as we can, with the least trouble to the importer and with the greatest amount of economy to the Government. You never can collect 100 per cent of what is coming to the Government under any system, in my opinion.

The law provides for the beginning of a customs transaction at the time of shipment on the other side, where the shipper has to go before the consul and make a declaration as to the correctness of his invoice,

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that he has put in the invoice all of the necessary charges, and the consul certifies on the invoice that he believes the statements to be true, and that certificate of the consul now includes the certification that he believes the values are correct. Our consular force is nowhere near adequate to look into the correctness of the values given on invoices and, as a consequence, the consular certificate on the invoice to-day, while it is accepted at the smaller ports, where our appraising officers have no means of verifying it or disputing it, is regarded as almost absolutely worthless at the larger ports, because it carries no personal investigation by the consul.

After the invoice is consulated in triplicate one is kept at the consulate, one is mailed to the collector at the port of entry, and one goes forward to the consignee, who presents his invoice with a paper called the entry, in which he makes a statement as to the correctness of the value.

We have found that the business of importing is gradually getting away from the forms provided by the law; it is getting into the hands of large importers like Borgfeldt & Company who gather together immense quantities of various types of merchandise, collect them at one point, consulate the whole on one invoice, and send it forward. Borgfeldt invoices cover as many as a thousand pages sometimes and are consequently very difficult for the appraising officers to handle, they have so many different types of merchandise in one invoice.

Mr. HAMMOND. May I interrupt you just a moment?

Mr. CURTIS. Yes.

Mr. HAMMOND. How long a time is a consul given to examine the invoice, as a rule?

Mr. CURTIS. He is given any length of time he wants. The ordinary practice is for the clerk in the consul's office to stamp his name on it, and that transaction is done. If we had our consuls really make an investigation we would have to quadruple the consular force; they simply have not got the men to do the work now. We have in Europe six confidential agents of the Treasury Department who do the investigating work that theoretically should be done by the consular force, and our number of agents is too small; it should be doubled, in my opinion. But while the consul has any amount of time he chooses to take he can decline to consulate an invoice if he believes there is something wrong about it. But as a practical matter, unless we are conducting an investigation and request the State Department to have an invoice held up, none of them is ever held up. The deputy stamps his name, receives the \$2.50 fee, and that is all that happens at the consulate.

I was speaking about these Borgfeldt invoices, and Borgfeldt is only one of several large importers. They buy in such large quantities that they get a lower price than the real wholesale market value at the place of production. Their real bills of purchase and sale do not appear because the invoice is often consulated at the point of collection of all these things, at the point of shipment, and consequently the appraising officer never sees the original bill of sale of the merchandise, which is kept abroad. They consign to themselves, generally using the consigned form of invoice. The law provides for a

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"purchased" form and a "consigned" form, but gradually we have found that the large importers are using the consigned form, for there they do not have to put on the price actually paid, but they put on what they say is the actual market value, and as it is a consignment theoretically there has been no purchase and sale; actually, in 90 per cent of the consigned invoices, there has been an actual purchase and sale; but they keep it away from an actual purchase and sale as far as any paper record goes.

When the merchandise comes over here the entry papers are first received by the collector, who has a clerk, called an entry clerk, who makes a notation on them that the merchandise is either free or dutiable and what the rate is, as he supposes from the description contained in the invoice. Then what is called an estimation of the duties is made, the estimated duties. The importer pays those duties and the invoice and entry are then sent to the appraiser who receives a sample of the goods. He examines the merchandise, makes his return as to whether or not they are correctly described in the invoice, makes an advisory classification as to what paragraph the merchandise comes under, puts on his appraised valuation and sends it back to the collector, who then makes what is called the final liquidation of the entry, basing the amount, if it is an ad valorem rate, on the appraised value of the merchandise, or if the entered value is higher than the appraised value, then on the entered value. Then that liquidation is made final.

At naval office ports I might say that naval-office clerks have to check everything the collector does. It is an antiquated system, and I trust we will soon do away with it under our reorganization plan, although I do not know.

That entry is then liquidated and the final amount due is stated and the importer is called upon to pay the difference between the estimated duty and the final amount. If it is against him he must pay the difference, and the collector sends him a refund of the difference if the estimated duty was too high. The liquidation is passed in the collector's office, and the importer has the right then to make a protest to the Board of General Appraisers within 15 days from the date of liquidation. If he files a protest the whole process is gone through again. It is sent back to the appraiser for a secondary return in order that the protest may have everything covered. The appraiser makes a second return, in nine cases out of ten, simply saying, "Prior return affirmed." But if the protest points out something wrong he makes an additional return and then it goes back to the collector, who may find the protest well taken, and thereupon there is a reliquidated entry; if he thinks he is still right then it goes to the Board of General Appraisers. That is in classification cases. In appraisal cases, where the importer thinks the appraiser has valued his merchandise too high, he has the right to go by appeal to the Board of General Appraisers for reappraisement, first before a single general appraiser and then before a board of three on reappraisement. The collector has the same right to take an appeal from an appraisal by the appraiser. It first goes to a single general appraiser and then to a board of three.

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The greatest single trouble, I think, in collecting the revenue from customs is with the appraising of merchandise and with the Board of General Appraisers.

As you are probably aware, we appointed in the Treasury Department an appraisement commission which has recently submitted a report, which the Secretary now has, but he has not finished reading it. That commission has gone into all questions of appraisal. We found so many tremendous undervaluations in almost every line of merchandise that we took up that the Secretary came to the conclusion that there must be something radically wrong with a system that permitted these things to go on for years and years without discovery. So we appointed a commission to investigate that. They worked most of the summer and have just made a very good report.

It was already apparent that the work of the board was not effective in that almost none of these undervaluations were ever caught there. I can not remember any case since I have been in office where the board has reported to the collector, or to the district attorney for prosecution a case of fraudulent undervaluation; and yet the testimony should come out before them that would indicate fraud in many cases.

As I was saying, we felt the situation with respect to the board was such that it should be investigated, and so the Secretary asked the President to appoint a commission for that purpose. He appointed Assistant Attorney General Denison as chairman, Mr. Loeb, and Mr. Frankfurter, law officer of the Bureau of Insular Affairs, and their report will be in next week. It has to do with the practice and procedure of the board and also the personnel.

In my judgment the board should be—not, perhaps, this board, but there should be a board of review within the Treasury Department subject to the control of the Secretary, and not a board that sits as a quasi judicial tribunal. The Treasury Department is thrown into litigation upon the work of a single examiner, without any opportunity of review in the department, and that works very badly. We do not correct our own mistakes either for or against the Government. We do not get an opportunity to have a matured judgment as to what the merchandise is really worth. We should have established a board of review within the department.

The Board of General Appraisers began as a board of review under the Secretary of the Treasury. It has gradually grown away from that theory and become a court. The board spends most of its time and effort in classification cases. While that is interesting business—studying what the language of a particular act means as applied to a given piece of merchandise—it is not half so important as what that piece of merchandise is worth. When it comes to collecting the revenues of the Government the appraisal of the merchandise is far more important than the classification. Classification is merely a question of reading the statute and knowing what the merchandise is, in tariff language, by an accurate description. Appraisal is work where you have got to dig in and find out what have been the financial transactions concerning that piece of merchandise and what have been the same type of transactions in the country

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of origin, because our statute, I think very properly, makes the tariff value of a piece of merchandise the foreign wholesale market value in the country of export.

The board spends more time on classification cases than on reappraisement cases. They are only human in that. I think if I were in their place I would feel inclined to do that, too. But they are slighting the real important part of collecting revenue from customs, and it is not proper to slight it.

Then, also, the collector of customs seems to be a more important officer than the appraiser, but he is not. The appraiser is the only one who actually comes in contact with the goods; he knows what they are and his advisory classification is almost always followed by the collector, who holds, however, the office that comes in contact with the public and who seems to be the more important personage; but the appraising is far more difficult work than the mere collecting of the revenue.

In the above I have attempted to show some of our difficulties with respect to the appraisement work in the department and before the board.

CRIMINAL PROVISIONS.

Another difficulty arises from the fact that some of our statutes are peculiarly weak with respect to the criminal aspect of these things. Subsection 9 and subsection 6 are two that provide for the criminal and forfeiture proceedings.

The CHAIRMAN. There was some testimony before us, I think, by Mr. Gerry, who was formerly in the customhouse, advocating the repeal of section 6 and claiming that section 9 covered the whole proposition.

Mr. CURTIS. I disagree with Mr. Gerry entirely. The present trouble with the situation between sections 6 and 9 is this: Section 9 has in it, at the end, a criminal clause:

And such person or persons shall, upon conviction, be fined for each offense a sum not exceeding \$5,000 or be imprisoned for a time not exceeding two years, or both, in the discretion of the court.

And section 6 is wholly a criminal section. Section 9 is the one under which most of our cases arise; they are generally forfeiture cases, and because there is that criminal clause in section 9 the courts rule that it is a penal statute and consequently everything is ruled against the United States.

What I should like to do would be to transfer the penal clause from section 9 and put it in section 6, having one the civil section, providing for forfeiture, and the other the criminal section, providing for punishment of crime.

The CHAIRMAN. So the Government would get a liberal construction instead of a strict construction?

Mr. CURTIS. Yes, sir; under section 9. Another thing the courts have ruled—and there is an appeal pending before the Supreme Court on this point—is with respect to the phrase in section 9—

Shall enter or introduce, or attempt to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice—

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and so on—the Circuit Court of Appeals has ruled that that did not apply to a man who brought in merchandise with a false invoice, but did not make an entry of it. He had it landed on the dock, but did not make the entry, and it was then ordered into what we call “general order.” General order goods are goods that are ordered into the warehouse after being left 48 hours on the dock without an entry being made.

Now, a man brought in a false invoice, but he did not make his entry; he did not add to the invoice his entry paper. The goods went to general order and stayed there for a while and thereafter we found out the truth concerning that type of merchandise, which was that it was undervalued by about 100 per cent. This is a case that grew out of the Panama Hat cases, about which you may have read. He made his entry, but he made it at the proper valuation after it had been published that we were after these people and knew the proper valuation. We started in to seize the merchandise on the ground that he had attempted to introduce that merchandise by means of a false invoice, that he had got it inside the country, although he had not made an actual entry, but the court ruled that he had not gone far enough to come within the provisions of section 9.

I think we ought to amend section 9 in that regard, that where the merchandise comes within the territorial limits of the United States it is far enough for a forfeiture proceeding to be brought if it is accompanied by or if there is a false invoice, affidavit, letter, or paper, by means of which it is brought to this country. In other words, if there is a false invoice or false manifest.

The CHAIRMAN. How would you amend the section to reach that?

Mr. CURTIS. I have detailed suggestions here which I would rather take up later. I will go over these in turn. I am just pointing out some of the general things. Those are the two points about section 9. There is that loophole in it concerning merchandise that goes to general order, and sometimes they do it deliberately to wait and see what we find out about that type of merchandise; if we find out something about it then they bring it out from general order and make the proper entry and we can do nothing because of this decision. Another point is that we have suffered from rulings against the Government because it has a criminal clause attached to it. I think that should be transferred to section 6, and the first part of section 6 be made to cover the types of action covered by the first part of section 9. You see, section 6 is much shorter and provides for the crime of making any false statement in the declarations as to the valuation of the merchandise; so that if section 6 were made to include all of the things that are covered by section 9, as far as the criminal aspect is concerned, and then section 9 made to cover the same things for civil actions, in my opinion it would be better and we would get better rulings under section 9.

Another point that comes up under section 9 is this: A great deal of the importing business of the country is done by these large houses of which I have spoken and also by express companies and some of the large banks who do the financing of the import transactions. These banks receive nothing but the invoice, and some

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employee in the bank makes the declaration provided for in section 5, in which he states that to the best of his knowledge and belief the statements made in the invoice are correct, and he makes that in a formal declaration, and he also adds that he does not know of any other invoice or document that describes or sets forth any other price. The bank employee takes that declaration down with his entry and files it at the customhouse. As a matter of fact, there clears through the bank with respect to this one transaction perhaps double the amount that is shown on the invoice as the value of the merchandise. When we come up against the bank officers under section 9 and say, "What do you mean by making that declaration that this is the true value?" they say, "Well, as far as we knew it was. Of course we do not check up everything that goes through our office; a man sends us an invoice and we enter on it." In other words, the large importers who use the banks and express companies have succeeded in putting in the place of the man who is to verify and justify the integrity of the consular invoice by actual knowledge a person from whom they keep the actual knowledge, so that the man who goes to make the entry never knows what he is talking about; he has no "best knowledge" nor any "belief" because they have kept both knowledge and belief away from him. Of course section 5 intended that somebody who was personally interested in the goods and in the transaction should come to the customhouse and personally say, "I know that is the right price."

Mr. DIXON. That is just like a bill of lading that a railroad company sends to a bank and a man collects on it?

Mr. CURTIS. Exactly. It has gradually worked out that the larger importers, who do business through the banks or express companies, have a person make the declaration who does not know what he is talking about. They keep all of that information away from the man who should know.

Mr. DIXON. And the man who sells the goods sends it to the bank for the purpose of getting his money and does not depend upon collecting his money from the importer later, because he may not know anything about his financial condition?

Mr. CURTIS. Exactly. The seller is completely protected and the importer does not care very much; he takes his draft to the bank and the bank man makes the entry; and although the draft going through on each transaction may be double the amount of the invoice, he says, "Why, I do not know anything about it whatever," though he probably really could know what they were doing if he chose to check it up. Several banks do quite a lot of this business, but no one man in any bank knows all the details of the transactions, and the fellow who makes the entries has no personal knowledge; he says, "Here is the consular invoice and my belief is the same as the statement contained in the consular invoice." And sometimes he says, "If the consul certifies to it, of course, the Government of the United States on the other side has said this is correct." So there again it comes back, in part, to the weakness of our consulating system. Some people rely on that to justify the entry.

Mr. DIXON. It would not be safe to depend upon the amount that is shown to be paid the bank?

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Mr. CURTIS. No; you could not rely on that absolutely. But that is not the point I am getting at. I am simply giving an illustration to show that the present system of doing business is far away from what our statutes contemplated.

The CHAIRMAN. But you think the banks ought to be required to have knowledge first?

Mr. CURTIS. Exactly.

The CHAIRMAN. And swear to it afterwards?

Mr. CURTIS. Exactly. And I would amend section 9 by such language as would make it have some teeth and which would cover that situation—that is, if anybody enters or introduces or attempts “to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or shall be guilty of any willful act or omission by means whereof,” and so on—I would put in a phrase there such as “or by means of a statement without grounds for believing it to be true,” because every time we try to get the agent who makes the entry the Government’s case is ruled out on the ground that there was no willful intent to deceive. We believe the purpose of the statute was to have the man interested in the merchandise make that declaration, and we ought to try to bring that situation back again. It has got entirely away from us.

Mr. HAMMOND. How would it do to have the bank either make the certificate of its own knowledge or procure a certificate from the importer for whom it is acting?

Mr. CURTIS. Of course, that should be done. The reason why that was not insisted on, as I understand the historical aspect of it, was that they wanted to facilitate the business where a man lived in a town away from the main port of entry. They said, “We will let his agent, the person acting for him, make it.” But there should be some provision that the person making that declaration should have knowledge, after an investigation to give him knowledge of the facts, or else it should be sent to the person who has that knowledge. I think some requirement of that nature—and I will point out later on the details—should be put into the law.

So much for the criminal side. I think with a few changes section 9 and section 6 can be made very effective; they are now pretty effective, but they are just these two or three types of cases that slip away, and we never catch the man.

Protest fees.

Next, as to the volume of work. The Board of General Appraisers is flooded with protests. I have here their annual report for the last year. The total number of protests pending June 30, 1912, was 146,153, and they decided the last fiscal year 120,801; there were received during that fiscal year 96,099. Oddly enough the longer a tariff act is on the statute books the more protests there are under it. Under the Dingley law the protests that went to the board

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increased, I think, with only one or two exceptions, every year, and under the Payne law, with one exception—in one year they were fewer—they have increased. A majority of these protests are frivolous.

It costs nothing now to carry a case before the board, and most brokers will file a protest on the chance that they may catch something. The present practice is for most of the customs brokers and lawyers to take 50 per cent of the amount recovered for their fee in case they win; the balance goes to the importer. That practice works to the detriment of the Government in two ways, and to the people, too. In the first place, it makes it for the benefit of the brokers or attorneys to prolong the litigation, because every new entry of merchandise of the same type that comes in has to have a protest filed with respect to it. The full duty is paid and there will be a refund if they win; so the longer the litigation the bigger the refund is bound to be, and consequently the interests of the brokers and attorneys are directly opposed to those of their clients, which, to my mind, is always a wicked situation, and you should not let it continue if you can help it. In the second place, it encourages litigation by having frivolous protests carried without any responsibility as far as costs go, and they clog up the work of the board. For two or three years I have advocated the imposition of a protest fee, to be recovered if the importer wins the case, of a nominal amount, say a dollar, to carry a case before the Board of General Appraisers. That has the approval of everybody in the service so far as I know. Certainly Collector Loeb and various other men with whom I have talked approve of the idea. At one time I presented it to the Committee on Expenditures in the Treasury Department, and the Secretary has recommended it in his report; and I think everybody else who has gone into it believes that a protest fee of \$1 with respect of every entry would reduce the number of protests before the board by at least 50 per cent. Most of them are really frivolous protests, just carried there because something might turn up. I would like to suggest that that be put in the bill.

The CHAIRMAN. Would a fee of \$1 be sufficient to guard against the filing of these frivolous protests?

Mr. CURTIS. I think so, because most of the present protests are taken without consultation with the importer. The broker does that as a matter of course. If there is the slightest possible ground he files a protest because it is to his interest to do so. I believe a fee of \$1 would discourage 50,000 protests a year at least, and the balance would probably be protests where the importer really thought his merchandise had been improperly classified.

Mr. PETERS. The Board of Appraisers consists of nine, does it not?

Mr. CURTIS. Yes, sir.

Mr. PETERS. Is there not some provision about three of them being on duty all the time?

Mr. CURTIS. Yes; the provision is that three shall be on duty at the port of New York daily. There are nine of them and not more than five shall be from the same political party.

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Another point with respect to the appraisement of merchandise is that under existing law while the Secretary can direct how merchandise shall be classified he can not direct how it shall be appraised. The result of that is that many times identical merchandise from the same place, but imported at different ports, is appraised differently.

We had a very striking illustration of that in the case of some Japanese goods imported by Morimura Bros., large importers of Japanese chinaware, crockery, porcelain, etc. They entered their merchandise in very large quantities at San Francisco, Seattle, and New York. We had some investigations made. They began about two years ago. The information that we had, made different impressions upon the appraising officers at those three ports. At New York they thought the invoices were entered correctly, and the appraiser consequently did not advance the valuation at all. At Seattle they thought there was an undervaluation of 30 per cent, and at San Francisco they thought the undervaluation was 70 per cent. There was the identical merchandise coming into this country at those three valuations right along, and the Secretary of the Treasury powerless to prevent such a ridiculous situation. Of course, he was powerless under the law, but he sometimes makes suggestions to appraising officers as to their course of action, and he suggested to these three that they agree upon something, and they finally agreed on 70 per cent. Then we fought it out before the board. But there was a case where the Secretary did not have the right to direct that that situation be corrected. I think the Secretary of the Treasury should have authority to correct that form of situation if not authority to put definite valuations on all merchandise. I, of course, appreciate that is giving him very large power—

Mr. KITCHIN. One minute. Why were not indictments preferred against these parties?

Mr. CURTIS. In that particular case they won their case before the board. Many of us are of the opinion that they won because we could not get at all the facts. While they won most of it, we did force up some of their values 10 or 20 per cent on certain things. The trouble with indictments in such cases is that practically all of the evidence is often abroad, and while we could get evidence that might be useful before the board, on a criminal case we would not have anything to—

Mr. KITCHIN (interposing). It would be hearsay evidence?

Mr. CURTIS. Yes, sir; but I just cited that to show the extremes to which the way we here in Washington keep our hands off the appraisements sometimes work out. There are many facts in the appraisement that I think the Secretary should have control over irrespective of whether he should be given definite control over the total value. Such facts as what is a wholesale quantity; what is the place of a foreign market; what is a proper commission allowed to a commissionaire; the inland freights that are charged in certain places; whether or not a surtax is paid in a foreign country; and things of that sort, where you can establish some definite item that either is or is not dutiable, and thus make the rulings uniform by the Secretary.

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CLASSIFICATION CASES.

Now, on the question of classification cases, I think we should have a board of review, either the same board that reviews the appraisals or a separate one within the Treasury Department, subject to its jurisdiction, with an appeal from them to a single member of the Court of Customs Appeals, where the record is created, and an appeal from that to the full court. The present court is composed of five judges, and they do a valuable work in this regard. They shorten the time of litigation very extensively. To my mind that is a great essential in the customs administration, not so much to have the decision right or wrong, for Congress can always correct what is wrong, but to have it speedy, so that the importer shall know definitely what rate of duty his merchandise is going to carry. Of course, it has been debated whether or not the Court of Customs Appeals is a beneficial body. I think it is because it is shortening the course of litigation tremendously. There is one case I might mention, the case of imported featherstitch braid, decided last spring by the Supreme Court. It had been pending 12 years, and during that time every importation of featherstitch braid into the country was assessed with a rate of duty by all the collectors, under the instructions of the Secretary, which was protested against by the importers, and those protests by the fives and tens of thousands were piled up in the Board of Appraisers' office while this litigation as to what Congress intended dragged its length along and finally got into the Supreme Court. It began in 1900 and was ended in 1912.

That is just the waste of effort and time and money that the Court of Customs Appeals was intended to prevent. We can get an issue quickly litigated; we can generally get it decided within a year from the time the litigation was begun, and many times more quickly. I believe that court is not big enough to-day if the additional work is put on them that it should, perhaps, have two more justices so they could be a *nisi prius* court for customs cases. Let a single justice hear the cases on classification, and eliminate the board of appraisers as at present constituted in the machinery of collecting the revenue.

I think we should have a board of review in the Treasury Department that reviews our own judgments on classification cases. I think that for various reasons. One is that in the classification cases as well as in the appraisal cases, we are thrown into litigation from the work of a man who may not be an expert. The collector is the classifying officer. At some of the smaller ports, of course, he has not the experience to understand the tariff act thoroughly, and he may make a great many mistakes. Our Treasury decisions are published and sent to him, with the decisions of the court and the board, and we try to keep him straight. Still, if we had a board within the department where we could correct those careless errors before they get into litigation, it would save a great deal of unnecessary toil and worry.

Then, again, we are now, owing to some, to my mind, peculiar decisions of the board and the court, in this situation, that we can not settle a case that we want to. About a year ago the Court of Customs Appeals made a ruling that a man had a right to protest a rate

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of duty that was too low; in other words, if a domestic manufacturer had imported some merchandise, and if we put on a lower rate, he had a right to protest against that and insist that he be allowed to pay more duty on that, for the purpose of getting higher protection for his product. The department had always taken the attitude that no one had a right to protest under such circumstances, and we took exception to it before the board, and they overruled it, heard the protest and sustained it at the higher rate. The case was argued before the court and they decided, four to one, that the domestic manufacturer had a right to protest when the rate was too low. The result of that was the creation of some—not as many as I had expected—but some factitious and fictitious cases where a domestic manufacturer brings in his own product from abroad, or something similar, the collector assesses a low rate of duty, and he appeals to have a high rate put on. The hearing is necessarily a one-sided affair, because the Government is not particularly interested in trying to keep people from paying money to it. The consequence is that a very improper form of litigation is encouraged by that decision.

I recollect the case of the Diamond Match Co. which imported some safety matches to get a high rate of duty put on. When the case was called at Chicago before a general appraiser, the collector simply said, "I think the low rate is correct; that is the way we classify them." The importer produced a half a dozen witnesses, all of whom testified in a very one-sided manner with very little cross-examination. The collector said, "I am not particularly interested." It was so much of a one-sided affair that the general appraiser, after closing the case, decided that there had been not exactly a frame up but a nonascertainment of the truth. So he reopened the case and had some more evidence produced by the collector and told him to get men to testify in favor of the Government receiving less money, which was a rather extraordinary proceeding. But he did that and the result was something of a change in the decision.

After that case was decided, there arose some others in which, when the case was brought by protest before the board, the amount involved was very slight, and the principle was one which the Government did not want to litigate. Our attorney before the board said he would enter into a stipulation to have the protest sustained, and permit the importer to pay the larger rate of duty, as he wanted to. The importer's counsel protested against that action, saying he desired a hearing on the merits. The board said: "There is nothing to be heard on that; the Government concedes error, and by agreement the protest is sustained." The importer took an appeal to the Court of Customs Appeals, saying he was entitled to have his case heard, whether the other side wanted to litigate it or not. The Court of Customs Appeals, last week, sustained that point of view; i. e., that if one side wants to litigate the question and the other side is willing to have a judgment entered against it, still the case must be litigated. It was a most unfortunate decision, to my mind.

That, of course, has produced a disagreeable situation. It puts us in a position where we can not get out of litigation into which

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we may be thrown by a collector who does not know anything about the international aspects which may be involved in a case. In other words, grave international questions can be thrown into litigation and we can not get out; we are bound to go on if anybody wants to litigate a case. Judge Barber, by the way, wrote a very incisive dissent in which he pointed out four very cogent reasons why the majority opinion was incorrect, which, it is, I think. If two litigants agree that one may take judgment, it is no business of the tribunal to insist on a hearing. Ordinarily it does not amount to much, but there might arise very dangerous situations if the domestic interests should bring in many factitious cases and insist upon having them heard, although the department were convinced that Congress intended a low rate of duty to be placed on the merchandise.

This may also be a dangerous situation in cases involving international questions. There is a case of that sort up at the present time with respect to section 2 of the Canadian reciprocity act, where an importer, the Cliff Paper Co., I think a subsidiary of the International Paper Co., brought an importation of paper made from wood cut on the free lands of Canada, and it was passed free of duty. They filed a protest on the ground that section 2 was not existing law, and demanded the right to pay duty on that at the regular paper rate under the Payne bill. There was a question that raised a large international policy of the Government, and yet we could not help litigating it. It has now been decided by the board and is on its way to the Court of Customs Appeals. That is an illustration of how the department is being forced to litigate anything anybody wants to. I think there should be an amendment eliminating in terms the right of importers to protest that the rate of duty assessed on the merchandise is too low. If the Treasury Department does not sufficiently and properly protect the revenues of the Government by throwing the benefit of the doubt to the Government, the remedy should be by proceedings to remove or impeach the Secretary or the Assistant Secretary in charge, in my judgment.

DETAILED SUGGESTIONS BY SECTIONS.

Now, as to the individual sections, if the committee would like to run over the subsections of section 28, I will take them up in order.

SUBSECTION 1.

Section 1 is very short, and in ninety-nine cases out of a hundred works admirably. The consignee of the bill of lading, or the holder of it, if it is indorsed in blank, is held to be the owner. The only case where that sometimes does not work out well is where the bill of lading is lost. Some customs officers have recommended that in the absence of a valid bill of lading, the merchandise may be entered upon the person entering the same giving bond in a form to be prescribed by the Secretary, in double the invoice value of the merchandise, and giving the true owner a right to sue on the bond. I personally do not think that is necessary, but I dare say it has been called to your attention. I do not know.

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The CHAIRMAN. I do not think anyone has made any suggestions in reference to it.

Mr. CURTIS. As a matter of fact, most collectors take a bond to protect themselves anyway, if the bill of lading is lost. At New York the collector will not take a bond. He takes a certified check. I do not think there are enough cases arising to make the proposed amendment worth while. I did not know whether that suggestion had come up or not.

SUBSECTION 2.

Section 2 provides for the making of the invoice. There I feel very strongly that we should make our first effort to get away from the fictitious "consigned" invoice instead of "purchased" invoices. What is likely to happen is this: A large house abroad has an agency in this country which makes contracts in advance of the arrival of the merchandise; then the house abroad ships to its house here with the merchandise all arranged, many times in the actual cases that are to go to the individual purchasers in the United States. But the declaration shows on the consigned form of invoice that they are consigning from themselves to themselves, and consequently no purchase price is put on. As a matter of fact there has been a purchase price. When these goods are sent over they are allotted and appropriated to individual purchasers in this country. A real purchase has been made, but the interested parties have covered it up under the form of a business transaction looking like a consignment, and thus the appraising officers are left in the dark as to the transaction that has actually occurred, which is the best evidence of the value of the merchandise, showing what the buyer did in reality pay for it.

I think section 2 could be improved if in the third line where it says, "or if purchased" there be inserted after that, "or agreed to be purchased"—some such phrase as that, which will cover the transaction I have described, which is very common. The rest of the section should, of course, be amended by the use of similar language in the appropriate places.

I think that would accomplish the result aimed at, that is, to require transactions which are really purchases and sales to be invoiced as such and not as consignments.

SUBSECTION 3.

The same thought runs through section 3. In addition, there should also be inserted in section 3, after the third line, where it says, "in which the merchandise was manufactured or purchased," the words "or contracted to be delivered," etc.

Mr. DIXON. I want to ask one question before you leave section 2. There you are speaking about cases where a foreign concern has an agency in this country. Would your proposed amendment be broad enough to embrace concerns in this country who take orders, for instance, and then go over there and make purchases to fill those orders?

Mr. CURTIS. Yes; I meant to cover that, too. That is also a large business now, where a firm in this country makes purchases abroad

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under either a partnership or an individual or a corporate name that is in reality the same as the firm in this country and then consigns to itself over here. There, again, the transaction is really a purchase, but is invoiced as a consignment. I think this phrase would cover that situation. In other words, we ought to know if there has ever been a purchase of merchandise with respect to the international shipment in question; and if so, what the purchase price was. As it is now, perhaps 90 per cent of the stuff that comes in under a consigned form of invoice—and a great deal does come that way—is not a real consignment within the intendment of the tariff law; that is, the Payne law intended that every importation should be given a purchase price, except those cases where a man ships to this country and says "Sell it for what you can get for it and remit to me the proceeds." That very seldom happens, however, except in the trade in perishable merchandise. Practically all lemons are sold that way. They are sold on the dock in New York by lemon brokers at auction. On most of the merchandise that is consigned there has been a transaction such as I have described, and the merchandise is not sent over here at an unknown price to be sold for what it will bring. It is sent definitely appropriated to a certain price and purchaser in this country, although they are not disclosed to the customs officers. I think this suggestion, or possibly something similar to it, would cure that situation.

Mr. KITCHIN. Take the case of lemons shipped here to be sold for what they will bring; how do they appraise the value of those?

Mr. CURTIS. There is a specific rate on lemons, so that we do not have to be careful about it. For statistical purposes I think the invoice value is taken.

Mr. KITCHIN. In the case of an ad valorem rate of that kind?

Mr. CURTIS. Where there is a bona fide consignment?

Mr. KITCHIN. Yes.

Mr. CURTIS. There the importer has to put on his declaration what is the wholesale market value of the stuff abroad. He has no specific transaction with respect to that merchandise, but if the appraising officer does not know what the wholesale market value is he generally asks to have it investigated in Europe.

Mr. KITCHIN. I understand there is this kind of a case in the United States: A manufacturer, say, in England will have an agency here, and he will bill those goods at the manufacturer's price, and they will come through, not at the real import price, as I understand it, but at the manufactured price, and therefore pay on an ad valorem basis a smaller revenue than they otherwise would with a regular importation.

Mr. CURTIS. That raises a very interesting question of what is the wholesale market value, and that has never been satisfactorily answered, to my mind. Many of the appraising officers disagree as to what circumstances make the manufacturer's price the wholesale market value and what circumstances the jobber's price. If the manufacturer is also a jobber, his price generally goes, but if in the ordinary course of domestic trade in the country of export there is also a jobber, the jobber's price is generally considered as the wholesale market value. But the question has never been satisfactorily

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settled, because the circumstances in every particular industry vary a little bit as between the jobber's and the manufacturer's price.

SUBSECTION 4.

Subsection 4, I think, needs no amendment. So far as I know that works all right. It has been suggested although I doubt the necessity of it, that the requirement there for a consular verification of the invoice covering the merchandise free of duty should be eliminated, but knowing the method used in our consular offices abroad, I should hate to leave to them the decision as to what is free of duty in this country. I think we had better keep that "consulation." It has also been suggested that a cumulative duty, say at 5 per cent, be put on for failure to produce a consular invoice. The practice to-day is that where an entry is made, in the absence of the consular invoice, on a pro forma invoice they give a bond to produce the consular invoice which is generally forwarded, and the entry is finally liquidated on a consular invoice. It sometimes happens that the consular invoice can not be and never is produced, and upon producing evidence that there has been a really valid reason for that, we cancel the bond and let it go at that. It might make people a little more careful if we had a penalty for failure to produce a consular invoice, but I do not think it very important. It is not a feature that is brought vividly to one's attention.

Mr. KITCHIN. It is not compulsory to have an invoice consulated in the country from which it comes?

Mr. CURTIS. Entry is made on a pro forma invoice, and the importer is called upon to produce a consular one.

SUBSECTION 5.

Section 5 is the section which provides for the forms of the declaration to be made by the owner, importer, consignee or agents. Two of them are where the merchandise has been actually purchased, and two where it has not been actually purchased. These declarations try to put into a bed of Procrustes all the business transactions relating to imports and make them conform to certain definite narrow lines laid down in the statute as to what shall be said about the imported merchandise. I think it ought to be left to the Secretary of the Treasury to prescribe forms which shall be signed by the importer, agent consignee, or owner, as the case may be, because there are frequently cases where you can not force a man to make one of the four declarations and have him tell the truth. I might refer you to a case in which the American Sugar Refining Co. was concerned. Some sugar growers in Cuba consigned certain sugar to this country to be sold for their account. While it was on the water the sale was completed and when it arrived it was merchandise that had been purchased. When the invoice was consulated it was under consignment. The importer could not make either one of those declarations and tell the whole truth.

We had to force an issue and tell them they were to take one or the other of these two declarations and add a statement of facts showing the date when and the terms under which the purchase was actually made. That is the sort of difficulty we run into continually, where

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we have to force people to make this form of a definite statutory declaration. I think the Secretary of the Treasury could better follow the changing forms of trade and make declarations to suit the situation and the parties rather than to try to force people to describe a transaction in terms that are too rigid to be wholly truthful.

Mr. HULL. What effect would that have on the criminal statute?

Mr. CURTIS. It would be very similar to the provision in section 5. Let it simply provide that whenever merchandise is imported into the United States the declaration should be signed by the owner, agent, or consignee in a form to be prescribed and published by the Secretary of the Treasury, and then make sections 6 and 9 refer to a false declaration made on such forms.

Mr. HULL. "And hereafter to be prescribed by the Secretary of the Treasury?"

Mr. CURTIS. Exactly.

Mr. HULL. Which, of course, might be changed from time to time as the Secretary changes?

The CHAIRMAN. I think there is this in that: I think they have held that you can not convict a man for a criminal offense for violating a regulation made by the Secretary. This is not a regulation; the penal offense would not be for violating it; he would be convicted of perjury.

Mr. CURTIS. Not quite perjury. He goes before a customs notary, but they are really declarations.

The CHAIRMAN. I think, Mr. Secretary, if I remember right the provisions are that although we have attempted to do it a good many times in passing laws, that you really can not convict a man or that Congress can not pass a law that will convict a man of violating a regulation of a department or a bureau, because a regulation is adopted after the penal feature of the law is enacted.

Mr. CURTIS. This would simply be a false statement on a form to be prescribed; simply the formal part is what the Secretary makes.

Mr. KITCHIN. That would be a distinction that would stand all right.

Mr. CURTIS. Of course, as a matter of fact, most of these forms would be maintained substantially as they are, but we would add something to cover exceptional cases.

Mr. HULL. This criminal section could be changed to cover it?

Mr. CURTIS. I think so.

Mr. RAINEY. Do they swear to this declaration?

Mr. CURTIS. Before a notary.

Mr. RAINEY. Swear to that or just simply——

Mr. CURTIS (interposing). "Solemnly and truly declares to them." He is not indictable for perjury in the ordinary sense, but it is a criminal offense under sections 6 and 9——

Mr. RAINEY. I see there is no provision here to require him to swear to them.

Mr. CURTIS. It is a declaration.

Mr. RAINEY. He would not be committing perjury?

Mr. CURTIS. Not in the ordinary sense.

Mr. RAINEY. Then you can not enforce this other penalty against him if you leave out the form?

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Mr. CURTIS. Yes, you would have the same right as you have now under sections 6 and 9, that anybody who makes any false statement in his declaration shall be——

Mr. RAINEY (interposing). "Provided for in the preceding section." Then you would have to change that to make it apply to any person who makes a false statement on a form provided by the Secretary for him to fill up?

Mr. CURTIS. I think it should read:

Any person who makes any false statement in the declaration prescribed and published by the Secretary in accordance with the authority contained in the preceding section.

The Secretary prescribes the form and the man makes the statement. It is just as false whether he makes it on the form the Secretary has prescribed or on this particular form in the statute. It is not violating any regulation.

Mr. KITCHIN. It is like the law giving the Secretary power to examine him and ask those identical questions, and so if he answers falsely he would be guilty of perjury.

Mr. RAINEY. Do you not think the declaration ought to be made under oath?

Mr. CURTIS. I do not think it is necessary, because you have got your penal clause right there, without calling it perjury. You simply say "false declaration," and it brings along the same results criminally, \$5,000 fine or imprisonment for not more than two years, or both.

Then I am inclined to think, although I am not sure, that the necessity for a customs notary should be eliminated, and that these statements should be taken before an ordinary notary. Under the present practice, we appoint a certain number of men in any port who apply for the appointments, as customs notaries, to take these declarations of importers and agents. I do not know any reason why any notary would not be just as good. We would in that way get the additional remedy against him for violating a State law. While I do not think that is an important point, I think it would be just as well to say any notary. We publish about once every quarter a list of new notaries that have been appointed.

Mr. RAINEY. I do not see any use in having that certified before an officer authorized to administer oaths when there is no need for administering an acknowledgment, when there is no acknowledgment to be taken.

Mr. CURTIS. Would you suggest to do away with that part entirely?

Mr. RAINEY. No, I am not making any suggestion. That just occurred to me; I can not see the reason for it. I do not see any reason for certifying before a notary.

Mr. CURTIS. If we do not have that—the purpose of this section is to sustain the integrity of the invoice and of the entry. If you let it go on a written declaration the collector is unable to say that the man who signed that is the person whose name is signed on it. The certification before a notary is intended to make that particular point certain.

Mr. RAINEY. For purposes of identification?

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Mr. CURTIS. Exactly; he appears and the notary certifies that this man is the man whose name is signed and has appeared and made solemn declaration before him.

But if your committee feel that it would be unwise to leave the making of these forms to the Secretary, I would suggest something similar to this. On the first page where it comes to the forms of declaration of the consignee, importer or agent, where merchandise has been actually purchased, I would add there, "or agreed to be purchased," in order to cover the same thing we wanted to cover in sections 2 and 3. Then he has to certify that he does not know or believe in the existence of any other invoice or bill of lading for such goods, wares, and merchandise.

A great many importers get around that statement by having what they call in the Spanish a *factura*, or what I would call a memorandum, or a description that is not an invoice or a bill of lading, but does describe accurately the merchandise and tell the person on the other side what its value is. One of the great issues raised in the Panama hat cases was whether a certain memorandum that came forward was an invoice or a bill of lading, and their counsel was dickering with me for months as to whether I would admit that it was not an invoice. I said, "You produce the paper; I will make no admission." We ought to have that knowledge. If there has been a description of merchandise that in any way indicates its value or price or comparative value compared to other merchandise on the same invoice, that ought to come to the knowledge of the customs officers who are appraising the merchandise. I suggest there to add to that "that I do not know or believe in the existence of any other invoice, bill of lading, paper, writing or other document showing the price, value, specification, or description of the said goods, wares, and merchandise." In other words, make that a definite declaration that this is all there is about that merchandise. If he has a private invoice or document that shows what it is and how it is to be valued, make him produce it. That really is a very important point because importers get around that situation by sending over private memoranda that are not invoices, and when presented with a violation of section 5 and prosecuted under section 9, they say "that was not an invoice or a bill of lading, and we do not have to produce it," and yet it contained all the information suppressed from the invoice.

That same change of phraseology should be made wherever it occurs in this declaration. Then there is a phrase here in the declaration, where it says, on page 93, that "the invoice now produced by me exhibits the actual cost at the time of exportation in the principal markets of the country from whence imported, of the said goods." Every man who has a long-time contract for deliveries from month to month covering a year, say, makes a false statement if the market fluctuates at all, when he signs one of these. When he signs it he puts his purchase price on and there is a fluctuating market, and it is not the actual cost of these goods in the principal markets at the time of export, I think that ought to be stricken out and this should be substituted, "that the invoice now produced exhibits the actual price paid, fixed upon, or agreed to be paid for such goods." Make him declare to the truth of his price rather than the truth of his cost

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at a given time. As it is to-day, practically every man who has a long-time contract must make a mental reservation, and the Government knows that it is not wholly true when he signs that declaration.

The same suggestions should be carried through the second form of declaration, and the same in the third and fourth which are declarations of the manufacturer or owner, in cases where the merchandise has not been actually purchased. Those are for real, bona fide consignments, where a manufacturer or owner abroad consigns his merchandise for future sale here.

SUBSECTION 6.

Section 6—that is the criminal section which we have already discussed. I would transfer to this section all the things described in the first part of section 9, and then cut out from section 9 the last clause concerning criminal offenses, leaving section 9 as a civil forfeiture section and section 6 as the criminal section.

SUBSECTION 7.

Section 7 is a section about which there has been a great deal of a difference of opinion. I suppose your committee has been asked to change that.

The CHAIRMAN. Mr. Gibson made some suggestions.

Mr. CURTIS. Section 7 is a very harsh section on a few honest importers; by which I do not mean to say there are only a few. But it works great hardship. It provides for what we call the increased and the additional duties in cases of undervaluation. That is, when the proper value is put on by the appraiser the importer pays the increased duty on the proper valuation, then he pays an additional duty of 1 per cent for every 1 per cent of undervaluation up to 75 per cent, which is a sort of penalty, although it is said not to be a penal provision. If he has undervalued more than 75 per cent, he only pays 75 per cent additional, but above 75 per cent it is prima facie evidence of fraud and is sent to the district attorney and seizure is made. It sometimes happens that a person on this side buys merchandise in a small way from people on the other side. I have many cases in mind of persons who buy trunks and millinery and dress goods, particularly from Paris. They all cut me to the heart. I hear the hard-luck cases, and I have nothing to do but put on the additional duty. Many of the Parisian shopkeepers think they are doing you a kindness if they undervalue them and send along a false bill for customs purposes. When the honest importer on this side is called upon by the appraiser for his private invoice he sends it to the customs house and is often astonished to learn that the merchandise has been entered on the fraudulent consular invoice. Then there arises one of these cases under section 7, where the law is mandatory, providing that the increased and additional duties shall be put on up to 75 per cent. Then it provides at the end—there are two provisions:

That all additional duties, penalties, and forfeitures, applicable to merchandise entered by a duly certified invoice shall be alike applicable to merchandise entered by a *pro forma* invoice or statement in the form of an invoice, and no forfeiture or disability of any kind incurred under the provisions of this section shall be remitted or mitigated by the Secretary of the Treasury.

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Of course our hands are completely tied in that case. We can only say the law says so and so, and there we stop. The purpose is to make it an expensive undertaking to be caught at undervaluing. In the Treasury Department we have tried to devise some way of lightening the hardships of that kind in cases that are clearly bona fide hardships without breaking down the law as to undervaluation. So far none of us have been able to agree on anything. Most of those who are interested in it have given it up as a bad job.

I want to point out the additional hardships that arise in the case of an importer who sends his merchandise in when he has an honest difference of opinion as to its proper valuation. If he is bringing in merchandise in shipments once a week and the appraiser takes the first one and says "I believe it ought to be valued at 100 instead of 50," the importer appeals for reappraisal before a single general appraiser, and then whoever loses appeals again to a board of three. That takes several months. In the meantime more merchandise is coming forward. The importer may either keep on entering it at the low valuation and have every one raised by the appraiser, in which case if he loses in the end all of his stuff will be liable to the additional duty, or he may enter at the appraiser's high valuation, in which case he is caught by the last sentence of the section which provides that "the duty shall not be assessed in any case upon an amount less than the entered value." The honest importer is sometimes thrown on the horns of a dilemma, from which there is no escape.

Mr. HULL. Why not leave out the last sentence?

Mr. CURTIS. There, again, you would throw open the door to undervaluation. Then many people would put in dishonest valuations.

Mr. HULL. Yes; I see that now.

Mr. CURTIS. The whole thing would be on the appraising officer, who has not all the absolute intimate knowledge as the importer has. We must not get away from the fact that the importer is the man who knows the value of these things, and there is where the Board of General Appraisers, to come back to them, have drifted away; they do not take that attitude. Here is the man who knows; let us bring him in and get the truth. They try to get the truth like some of our more technical courts.

I thought of suggesting that where there was a case such as I have last outlined, the additional duties might be waived, with respect to all the entries except the first, but it is pointed out to me by the men actually handling the situation on the spot, under section 7, that that would encourage undervaluation, as, after all, an importer would not have very much to lose, and he would therefore try to get in at less than the real value.

Mr. PETERS. If the waiving of duties was optional, would not the discretion of the Treasury Department tend to the discouragement of that?

Mr. CURTIS. It is a pretty hard situation to put the Secretary in the position of saying to one man "I think you are telling the truth," and to the next one who appears, that he is not. In these cases, somehow or other, everybody seems to know what the decisions are; there is a certain underground source of information whereby a ruling in favor of X, for instance, is spread all over the country, and

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the brokers say, "You gave him that, you ought to give it to me." The Secretary would be put in the position of saying to one man, "I think you made an honest mistake in valuation," and to the next fellow, "I think you did not." It is not an agreeable situation.

I would like to interrupt the course of my general remarks to make a few comments on some of the testimony of Mr. Gerry before this committee which I do not want to leave without some correction by the department. On page 5069 of No. 26 of the hearings, Mr. Gerry in answering some questions of Mr. Fordney said that there were some cases where merchants have refused to be held up by the special agents, and where they had to go into court to defend themselves. Since this administration has come in I can only recollect three cases in which we have brought forfeiture proceedings into court in which the Government has lost. One was a mahogany lumber case, at the port of New York, where we lost, owing to what we believe was an erroneous ruling of the trial court; and we have directed that another suit be brought to test the ruling. There were two of the Panama hat cases, in one of which there was a ruling against the Government, which we have carried to the Supreme Court, and in the other of which the jury disagreed, after which we compromised the case; and there was a case against Mr. Downing, who was a customs broker in New York, where the court ruled under section 9 that a man might make any statement he chose in his declaration if he did not have reason to believe that it was false; in other words, the phrase "to the best of my knowledge and belief" might be founded upon no knowledge and no belief. This was the one instance, I believe, where the Government lost a forfeiture case, and I therefore think Mr. Gerry's criticisms are not fair to the department or its officers.

On the next page Mr. Gerry spoke about a case at Gloversville, N. Y. I understand the importer was arrested but he never was indicted, and the forfeiture suit for \$6,000 which was begun against him is still pending. Then he spoke about another case where a man by the name of A. C. Byerline—this was also a glove leather case—this man by the name of Byerline, he says, was approached by the special agents, who said to him about 6 o'clock in the evening: "Now, you pay us \$3,000 by 9 o'clock to-morrow morning or we will seize your merchandise." He managed to get his \$3,000 and paid it over at 9 o'clock the following morning.

"Then he came down to see me," Mr. Gerry said, "and told me what he had done, and I said, 'What did you do it for?' and he said, 'Why, they were going to seize my goods; if I did not pay this money they were going to seize my merchandise and put me out of business, whereas, if I did pay it over, they would compromise the case, and I would hear no more about it.' But after thinking it over and believing that a wrong had been done him he came to me. I went to them in behalf of my client and said to them, 'This is not a proper way to do,' and they said to me, 'Mr. Gerry, you will have to make an offer of compromise or we will hand that money back to the surveyor and we will enter suit and the case will be tried.' A letter was written to the Treasury Department explaining that the money had been paid under duress, and when the whole correspondence was brought to the attention of the Secretary of the Treasury, we are in receipt of advices, the money was returned."

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Mr. Gerry says, "The Secretary of the Treasury," and by that I think he means me, because this particular case never went to the Secretary. That money has not been returned; \$3,000 was paid, and that case is pending before the solicitor to-day.

Personally, I think Mr. Gerry's clients were perhaps in the right and our special agents were perhaps in the wrong. It was a very close question of fact and law, and I think the special agents were entirely justified in taking the course of action they did. It is a case concerning which in the department there is a good deal of difference of opinion. My view more nearly coincides with that of Mr. Gerry, but I do not know whether the solicitor will concur with it or not. So his later statement that "we simply put the matter up to the Treasury Department and they decided that my position was correct" is not a correct statement of fact. Moreover, Mr. Gerry has admitted that at least \$250 is due the Government.

Mr. Fordney asked him, also, whether they could not have given a proper bond for their goods and then gone about settling it in the due process of law. They could have done that, and Mr. Gerry, I think rather purposely, did not answer that question directly. The provision of law is that after a seizure has been made it may be released upon the giving of a bond equal to double the value of the goods. They did not choose to do that, but they might have. They chose rather to pay \$3,000 and prevent the original seizure. I have discussed these cases simply to correct some possibly erroneous impressions that Mr. Gerry might have left.

SUBSECTION 7.

With respect to section 7, Mr. Gerry left the impression in his testimony, in his remarks concerning the authority of the Secretary to remit all but 10 per cent of the increased and additional duties, that that had the approval of the Treasury Department. The only basis for that remark is that in a casual conversation with the Chief of the Customs Division the latter said that if the authority to remit were limited to 90 per cent he would not oppose it; but so far as either the Secretary or myself is concerned Mr. Gerry has had no conversation with us, and he was not authorized to represent the department in any way.

SUBSECTION 8.

The only remark that seems to be worth while about section 8 is that it ought to be enforced. That section requires a statement signed by the manufacturer—

that when merchandise entered for customs duty has been consigned for sale by or on account of the manufacturer thereof, to a person, agent, partner, or consignee in the United States, such person, agent, partner, or consignee shall, at the time of the entry of such merchandise, present to the collector of customs at the port where such entry is made, as a part of such entry, and in addition to the certified invoice or statement in the form of an invoice required by law, a statement signed by such manufacturer declaring cost of production of such merchandise, such cost to include all the elements of cost, as stated in section 11 of this act.

And it goes on to say:

When merchandise entered for customs duty has been consigned for sale by or on account of a person other than the manufacturer of such merchandise to a person, agent, partner, or consignee in the United States, such person, agent, partner, or con-

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signee shall at the time of the entry of such merchandise present to the collector of customs at the point where such entry is made, as a part of such entry, a statement signed by the consignor thereof, declaring that the merchandise was actually purchased by him or for his account, and showing the time when, the place where, and from whom he purchased the merchandise, and in detail the price he paid for the same.

For many years, that section has been a dead letter. The reason for that was that some time prior to this administration the department ran into difficulties with the foreign countries. They protested very vigorously against the enforcing of that section. That was one reason. The second reason was that after a manufacturer had filed his cost accounts for the first shipments it seemed a useless waste of time and effort for him to keep on filing them for later shipments. As a matter of fact, now, under instructions from the department that is never called for except in particular cases, but those cases practically never arise, so that section 8 has fallen into innocuous desuetude. It ought to be revived if it can be done without creating too much opposition in Europe. Whenever we start on anything that is at all severe, we have run into diplomatic trouble, but section 8 is a good section, and would give much additional aid to us, if properly enforced.

The CHAIRMAN. That is a question for the administrative officers, and not a matter of amendment of the statutes.

Mr. CURTIS. No, it does not need any amendment. It think it ought to be left alone, and enforced as far as possible, without bringing reprisals against us by foreign countries.

SUBSECTION 9.

Section 9, I have practically discussed under section 6. I think it should be kept substantially as it is with minor amendments and with the criminal part thrown in section 6, which should be made like it. I spoke at some length on that on Saturday.

SUBSECTION 10.

Section 10, I think is all right, and should be left exactly as it is, although there is this peculiarity about section 10; it makes it the duty of the appraisers to ascertain the actual market value "and wholesale price" of the merchandise. Then section 18 gives the definition of actual market value. I do not know the necessity of the phrase "wholesale price." That appears in both section 10 and 18, but the definition the appraisers have to work on is in the second clause of section 18—

that such actual market value shall be held to be the price at which such merchandise is freely offered for sale to all purchasers in said markets in the usual wholesale quantities, and the price which the manufacturer or owner would have received and was willing to receive for such merchandise when sold in the ordinary course of trade in the usual wholesale quantity.

As a matter of fact, the appraisers go on the wholesale market value; if the wholesale price has another meaning they disregard it. If it is the same thing in different terms, it is all right, though somewhat superfluous.

Mr. HULL. If the man has bought an unusually large quantity of goods and gets them cheaper than the wholesale price to the ordinary

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purchasers, he gets the benefit of that when it comes to the customs office here?

Mr. CURTIS. No, he does not; under the law, he does not; as a matter of practice he sometimes does. That is one of the difficulties that the appraising officers are under, of ascertaining what is the usual wholesale quantity, and when they have ascertained that, if a man gets a lower price because he buys in quantities, ten times as much as usual, he has the value of his merchandise put up to the ordinary wholesale price. In other words, every piece of merchandise of similar character is supposed to be valued exactly the same as it comes in, irrespective of the contract price, and that prevents the big man from getting ahead of the little one.

Mr. HAMMOND. The Sears Roebuck man was here and he wanted a provision put in to assess it at the price at which they purchased it, without reference to the date of purchase.

Mr. CURTIS. I think he is wholly wrong on that. It would give a tremendous advantage to the big purchaser.

Mr. HAMMOND. I presume that was his motive.

Mr. CURTIS. I have no doubt it was in part, and in part to enable his firm to rely wholly on the contract price.

Mr. HAMMOND. He also stated the market value should be ascertained at the time the purchase was made, and not at the time the goods were imported. He claimed that it was the custom of merchants to purchase their goods in advance for future delivery, and he thought the duty should be assessed upon the market value at the time of the purchase and not at the time of the importation.

Mr. CURTIS. I do not believe that would be a practical matter; that would require the appraisers to assess contracts. They would have to go into the history of every particular contract for importation, and I think the result then would be that merchandise of exactly the same character, arriving on the same date and shipped the same date, would be assessed at different values.

Mr. HAMMOND. He, of course, meant that he would give notice at the time of purchase, so that the value might be ascertained at that time and not collected until the importation.

Mr. CURTIS. You might have this situation, that where there was a brief flurry in some particular line, a man with a long head and a long purse, would make a five-year contract at a very low price, and under such a plan he would beat his competitor not only on the contract price, but also on the amount of duty he paid for the next five years. We have tried sometimes to accommodate the collection of revenue to existing contracts, but every time it has been a failure, to my mind.

We have a practice of giving 30 days' notice when we increase the rate over what has been a standard in the past when we find an error that has been against the Government. There is not any provision of law for that; it is an equitable practice that has grown up in the department. The Secretary at one time was very anxious to give some people who had a year's contract outstanding a longer time than the usual 30 days. He wanted to have the increase take effect at the end of their contract period, but I told him I did not think we could administer the customs on the basis of private contracts. He also came around to that view.

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Every time you start in to take into consideration existing private contracts you get into a snarl that you never get out of, because every man has a different proposition that he puts up to you. I think you have to create some hardships that are for the common good.

SUBSECTION 11.

Section 11 is a good section which I think ought to be applied more than we do apply it. It has one bad feature in it, and that is the necessity of proving that there is no foreign market value abroad. I have known of cases—I think Mr. Burgess in his testimony cited one—where a fictitious market value was made for the purpose of a pending case. Some goods came in and the importer appealed from the appraisement and said, "How do you get at this value; there is no foreign market value abroad for it; it is all sold in this country;" whereupon the appraiser said, "We get at it under section 11 by taking the domestic price and deducting the freight, duty, profit, and so on, and get it back to the value on the other side"; whereupon the importer went out and made a few sales on the other side and brought the evidence of those sales back to the Board of General Appraisers, and the board, stuck in the bark, as I call it, took that evidence and said, "There are the sales, you can not go behind that." The whole thing was fixed up, in my opinion. I think the Secretary of the Treasury ought to have power, among other things, on appraisals to make rulings as to whether or not a foreign market value does exist.

Mr. HARRISON. There appeared before the committee during the hearings some representatives of the Parliament of Bermuda and one representative of the Bahamas, and one at least of those men told us that vegetables coming into the New York market from Bermuda were taxed on the value of similar vegetables in New York, upon the ground that the market value in Bermuda was not ascertainable. That seemed to me at that time a most unreasonable law because it should not be very difficult to ascertain the value of staple commodities like Bermuda onions in the New York market, and it seemed to me it was most depressing.

Mr. CURTIS. I talked to those gentlemen. I think the appraiser was wrong on that proposition. I wrote to him; as a matter of fact, the appraiser came in to see me that day and I spoke to him and I had a formal report from him about that. His reply was that there was no wholesale market value in Bermuda; that these vegetables were simply peddled around there; that by far the greatest amount were sent to New York on consignment; and that they had no way of arriving at any wholesale market value in Bermuda, and consequently they had taken their selling price in New York and deducted the freight, duties, and so on, and tested it back in that way. I have given instructions to have investigations made in Bermuda as to whether or not there is a wholesale market. The two gentlemen here before the committee said the large hotels there buy in large quantities, and their statements seemed to be very credible. I am inclined to think the appraiser was wrong.

Mr. HARRISON. That was the only concrete example of the working of this law that I had ever heard, and if that law works that way in

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many commodities, I think it imposes rather undue hardships on the importer.

Mr. CURTIS. That subsection 11 is almost never put into operation. It ought to be more so, because there are a number of things manufactured abroad that are only sold in this country, and there is no real foreign market value, and sometimes they will make up a fictitious one, such as has been done in some instances where markets have been created just for the purpose of defeating section 11.

Mr. HULL. What would you think of assessing the duties on the American price, and making the duties such—

Mr. CURTIS. I think it would be impossible; I do not believe we could do that. I understand it was tried back in the thirties or forties and was given up. In that case you have to follow the goods into consumption. You have to see what they are going to be sold for after they come in. I do not believe we could ever make that work, if you tried to follow the goods into consumption.

Mr. HARRISON. Did you ever have any experience with the Limoges people in regard to alleged excessive ad valorem duties?

Mr. CURTIS. I should think so. It is almost the most difficult situation to handle there is, that Limoges situation. We have had two commissions over there, and nobody is yet satisfied. Unfortunately, it got tangled up with diplomacy and we had to negotiate with the French ambassador as well as the Limoges Chamber of Commerce and the American Chamber of Commerce at Paris. At first almost everybody was against us; but now we have got a new plan, that is very elaborate, which, I think, will work out well. If we could get a specific rate, it would simplify the administration tremendously.

Mr. HARRISON. I do not see how you can do that without going into very long detail, unless you made a classification that is liable to have blocks in it.

Mr. CURTIS. You might write a specific rate and classify on the grade of white china, drawing certain particular lines as to the decoration. That is what we have done. We have made a plan that takes in all the grades of white china, with every known possible combination of different decorations that go on it, and we have created a scale by which when once you ascertain the value of the white china and the value of the main decorations for the 8-inch plate, you can take that and apply it to a whole dinner set.

Mr. HULL. Would it not simplify it to have that same classification in the law?

Mr. CURTIS. It might be done, but it would make a classification as long as this table. I do not know whether it was presented to you or not, but our Limoges rate list is an enormous affair.

The CHAIRMAN. I think we had better leave that to the Treasury Department under its rules.

Mr. CURTIS. Any Secretary would welcome having that taken off his hands. It is a very difficult situation.

Mr. HARRISON. In the case of articles in the tariff list which come from remote countries, crude articles or raw materials of one sort and another upon which tariff rates are laid, is it not very hard to ascertain the wholesale price at the point of export?

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Mr. CURTIS. It is; particularly so from China. Most of the others can be ascertained fairly well. On the other hand, in the remote countries our consuls generally have less to do than in other places, and they are able to make some investigations for us. Throughout the Orient we do not have many confidential agents, and we generally ask the consuls to make our investigations; they have more time in those countries than they do in European countries.

Mr. HARRISON. If that is the only objection upon the part of the people interested in the new law we are trying to frame, that would seem to be a sound reason for abandoning ad valorem rates.

Mr. CURTIS. No; I do not think that is. Of course, every time you have an ad valorem rate you have an invitation to undervalue, no matter in what country it originates. Specific rates are far easier to administer. I do not think the argument made in regard to far-off places is compelling. There is considerable difficulty, however, on the question of third-class wools.

Mr. HARRISON. Wools sold at auction in the London market, like the clothing wools!

Mr. CURTIS. There it is very difficult to get back to what they claim is the price just after it has been clipped. We sent a man to Manchuria and some of those places in order to check up some wool cases, and we have trials pending on that issue now. The wool merchants are very apt to send the wool into places in Russia or Siberia, warehouse them for a little while, and then ship them over to this country, try to eliminate a number of charges, and thus get the wool back to the original purchase price for customs purposes, and they generally arrive at 11.8 cents per pound, which is just below the duty line. That creates a difficult question, on account of the peculiar difficulty in getting at the facts.

SUBSECTION 12.

Subsection 12 is the question of the appointment and functions of the Board of General Appraisers. As I said Saturday, I think that works very poorly. As a part of the machinery for collecting revenue from customs it is the weakest point. I believe that we should have a board of review within the department, sending appeals from that in classification cases to a single judge of the Court of Customs Appeals, where the record would be created; and appeals in valuation cases, perhaps, to a board similar to this Board of General Appraisers, only fewer of them, whose powers should be final so far as setting values go, with a possible appeal to the Court of Customs Appeals on questions of law. I think this committee, if you will pardon the suggestion, would do well to await the report of the President's commission investigating that particular phase. I know they are making a very exhaustive investigation of that particular matter.

The CHAIRMAN. You think, in regard to section 12, we had better reenact it and wait.

Mr. CURTIS. That report will be in this week, I think. I do not know when it will be published, but undoubtedly before the end of the term.

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Mr. HARRISON. Before you leave section 12, may I ask you how long the appraisers or members of this board have been in office in New York?

Mr. CURTIS. Some of them, I think the president of the board, was appointed——

The CHAIRMAN (interposing). Harrison's administration.

Mr. CURTIS. In 1890, I think.

Mr. HARRISON. It is a life office?

Mr. CURTIS. Yes, sir. During good behavior. The law provides that they shall only be removed for neglect of duty, malfeasance in office, or inefficiency. Mr. Cooper was appointed about two years ago by President Taft.

Mr. HARRISON. The law says that not more than five of such general appraisers shall be appointed from the same political party. I suppose that will allow for the break-up of existing parties.

Mr. CURTIS. I do not think there is anything in that bipartisan feature, personally. This board should be of a high enough character and personnel to eliminate that question. I do not think that is a necessary qualification, to have it bipartisan.

Mr. HULL. You think if they were not holding positions for life they might become more efficient?

The CHAIRMAN. That provision was put in the law as a compromise in Harrison's administration, if I recollect right. The Senate was Democratic, and Harrison wanted this put through, and I think it was at a time of change of administrations. I think it was put in as a compromise. It was a compromise of the original proposition that one half should be bipartisan. It was not the intention of the original law. It was put in by the Senate.

SUBSECTION 13.

Mr. CURTIS. Section 13 contains the provision that the collector may appeal to reappraisement from the valuation of an appraiser. Except at the larger ports, the collector is the appraiser, so that we have the situation of the collector as a collector appealing from his own decision when acting as an appraiser. It always has struck me that it was a clumsy method of arriving at the truth in these cases, that the Government which has the power to appraise at any value it wants, should have to take an appeal, one officer from another, or sometimes one officer from his own action. I suggest that section 13 be amended by providing that the appraiser shall have 60 days in which to correct his appraisal, or, that the collector shall have 60 days in which he may insist upon a higher appraisal, and let the importer always be the appealing party in valuation cases. Most of the appeals taken by collectors to-day are on newly discovered evidence, which would have made the appraiser raise his valuation if he had an opportunity. Under the law as it stands now, an appraisal once made, can not be changed; the appraiser can not go back on his appraisal. Sometimes the special agents have discovered new evidence and come in and say "here is evidence of fraud," and the collector takes an appeal on the recommendation of the special agents. It seems to me you might just as well extend the time within which

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the Government may correct its own errors against the Government, and let the importer take an appeal from the corrected valuation.

I also think on that that the requirement of samples of merchandise should be amended, and that appraisers and general appraisers should have the right to make an appraisal without the merchandise being before them. There are several very amusing illustrations of how that provision concerning samples works out. There was an appeal to reappraisement on some dump cars entered at Porto Rico. The general appraiser had a dump car of that consignment brought from Porto Rico. It was put in a position right near the appraiser's stores in New York. When the case came up for hearing the general appraiser stepped to the window and looked out, and said, "I see your dump car," and the dump car went back to Porto Rico. He did not even go down to look at it closely.

Another case: There was an appeal from a Texas port on the valuation of some cattle that were entered. The single general appraiser reversed the local appraiser and sustained the entered value, and the board of three general appraisers declined to reverse that decision on the ground that they did not have any sample before them. So I took the principle of their ruling and wrote to the appraiser that as the board could not take jurisdiction without samples, and as the single general appraiser had no samples, the appraisal of the local appraiser should be sustained, and it worked out exactly opposite from the result apparently reached by the board. It was one of those ridiculous cases that arise owing to the necessity for samples.

We took that point up to the Court of Customs Appeals two years ago, and they made a decision that the sample must always be present, and set aside a decision of the appraiser because he did not have the sample. If we had taken that decision literally, our appraiser's stores would have been so clogged with stuff that we could not have got through the business. We asked for a rehearing before the court, and in the meanwhile simply suspended the operation of their first decision pending the rehearing. We showed them at the rehearing how impossible that decision was from an administrative point of view, and in their second decision they explained what they meant in the first one. The net result was comparatively satisfactory to the department, so that we can, by stipulation, get around the sample question. The importer now agrees that the rehearing may go on without samples, and he will abide by the decisions. We had to go through a long rigmarole to get to that settlement of the sample question.

SUBSECTION 14.

Section 14 should be amended, in my opinion, by the addition of a protest fee. I have already spoken about that. I believe more than 50 per cent of the protests and appeals for reappraisement would be eliminated if we had a simple protest fee of not exceeding \$1. That should apply both to protests on classification and to appeals to reappraisement. I drafted a suggestion last year for the Committee on Expenditures in the Treasury Department which provides in substance that if within 30 days after the filing of a protest a fee of \$1 was not deposited the protest should be deemed to be waived and abandoned. That gives 15 days for the protest and 30

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days more for the importer to look into the merits of his claim. I think in 45 days a man ought to know whether he wants to litigate a claim or not. I think that change would do away with a great deal of congestion at the board. That should also be applicable to reappraisement cases. I think it should be returned with the amount of duties found to have been collected in excess, if the importer wins his case.

SUBSECTION 15.

Section 15 is the authorization to general appraisers and local appraisers and collectors to cite persons before them and examine them under oath. I think it should be amended in one or two regards. In the first place, the courts have held that the collector or the appraiser can not inquire of the persons involved concerning importations earlier than the one under consideration. That is frequently a very great handicap to the officers who are endeavoring to get at the truth. They find they are limited in their action under that section to merchandise then under consideration. They find it a great handicap in that regard, and I think it ought to be changed by making the phraseology read, "respecting any imported merchandise then under consideration or previously imported." That would let the collectors and appraisers really find out the facts concerning a series of transactions. I think there should also be added at the end of the section in order to make clear the intent of Congress in providing that the collector might require such testimony to be reduced to writing, and when so taken to be filed in the office of the collector, and preserved for use or reference until the final decision of the collector or appraiser shall be made respecting the merchandise. We should add, "and such testimony shall be received in evidence, and given consideration in all subsequent proceedings relating to such merchandise." I think I cited Saturday the case of the fishermen who had left port, and the question arose as to whether their testimony taken by the collector should be received at a later proceeding.

SUBSECTION 16.

Then section 16 provides for the penalty for not answering the questions authorized to be administered under section 15, a penalty of \$100 fine. I should like to have that read that "a penalty of not less than \$20 nor more than \$500, to be summarily imposed by the collector, or chief officer of customs."

This hundred dollar penalty does not work very well, because, in many instances, an importer would rather pay \$100 than tell what he knows about the matter. If we could have a summary proceeding for enforcing and putting some teeth into sections 15 and 16, I think they would work better, and we could get at the truth. So far as I know, none of these sections has ever been used for purposes of oppression. A man should show his books. It may be an importer, or it may be a purchaser from an importer, whose books are wanted, and consequently I think the officers should have greater powers to compel the production of the real facts concerning the importation. That also should apply to past transactions as well as those under immediate consideration.

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SUBSECTION 17.

Section 17 is the section providing for the publication of decisions of the board. It is a little vague now as to who has the authority to determine what decisions shall be published and what not. It says, "All decisions of the general appraisers shall be reported forthwith to the Secretary of the Treasury and to the Board of General Appraisers on duty at the port of New York," and then goes on, "it shall be the duty of the said board, under the direction of the Secretary of the Treasury, to cause an abstract to be made and published of such decisions of the appraisers as they may deem important," and so on. I suggest that the words "and he" be inserted after the word "they," so that the Secretary shall have joint authority in determining what decisions shall be published. It has never been determined who has the final authority under this phraseology. I think the Secretary should have definite authority, in conjunction with the board, to determine what decisions are to be published. The present practice is for the board to make up their own lists of decisions. Some of them are published in full when they are of sufficient importance. The others are called abstract decisions and a very brief abstract is published. They are sent to the Treasury Department by the board, and we send them to the printer to be published in our weekly Treasury Decisions. With the exception of two minor cases, we have never had any controversy with the board in this regard. However, I think it should be cleared up.

I also think the general appraisers should be required in their opinions, especially on valuation cases, to state the facts that have appeared before them, not necessarily their reasons, but a statement of the facts. It frequently happens now that the board will reduce the appraisal in a case indicating gross undervaluation to just below 75 per cent increase in order to relieve the importer from the seizure required if there is an increase of 75 per cent over the entered value. Such a decision by the board is no indication to the appraising officers of the rest of the country what the real value is. It is done by the board to relieve an importer from what they consider to be a hardship; and no reasons given. Since this administration has been in office I think the board has only given its reasons or a statement of facts in valuation cases in one case, and that was a wool case. It showed the local appraisers what the facts really were, and how they should proceed in their work of appraising.

Now, a reappraisement case published in a weekly list simply shows a description of the merchandise, with a statement of "entered value sustained," "appraised value sustained," or a compromise between the two. No reasons are given and no statement of facts is given, and afterwards nobody knows who has testified in that hearing. If the board were required to keep a record of the witnesses, with a brief summary of what they said, we could check the witnesses up, and when we had evidence to prove fraud, or something of that sort, we would also have the evidence of perjury. Now, we have no light to guide us, and many times the local appraisers get into difficulty with these valuation cases, because they do not know on what theory of law the general appraisers reached their conclusions.

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They may be adopting a wholly erroneous theory of law and no one be any the wiser. I think they should be required to make a summary statement of the facts.

Mr. HARRISON. All these questions have become all the more important as more ad valorem rates have been introduced into the tariff?

Mr. CURTIS. Yes, sir.

Mr. HULL. These decisions you send to the officers of the Government—how do the importers get them?

Mr. CURTIS. By subscribing to them.

Mr. HULL. They have to pay for them?

Mr. CURTIS. Yes. They are the Treasury Decisions which come out in a little pamphlet every week. They cost \$1.75 a year and the weekly reappraisement circulars cost 60 cents per year.

Mr. HULL. The same publication in regard to internal revenue.

Mr. CURTIS. Yes, sir.

SUBSECTION 18.

I think section 18 is all right. That is a definition of what the actual market value in wholesale quantities is. There again, I think it would be wise to let the Secretary, in disputed cases, decide what the usual wholesale quantity is. Different ports have different shippers sending their merchandise in; each port thinks its shipper is a wholesaler. Many times the quantities are quite different, with consequent difference in value.

SUBSECTION 19.

Section 19 I think is all right.

SUBSECTION 20.

I think section 20 should be amended. That provides, "That in all suits or informations brought, where any seizure has been made pursuant to any act providing for or regulating the collection of duties on imports or tonnage, if the property is claimed by any person, the burden of proof shall lie upon the claimant: *Provided*, That probable cause is shown for such prosecution, to be judged of by the court."

That applies at present to actual seizure cases. Where merchandise has been imported fraudulently and we can get at it it is seized; where it has passed into consumption a suit for value is brought against the importer. Where we seize the merchandise the importer has the burden of proof; where he has got away with the merchandise the Government has the burden of proof. There is no sense in that distinction.

I think section 20 should be amended so as to remedy this situation.

Mr. HULL. That would be changing the ordinary rules of procedure.

Mr. KITCHIN. You say now the burden is upon the Government, after it goes into consumption?

Mr. HULL. The Government brings the suit?

Mr. KITCHIN. You say the burden is upon the Government to establish the value?

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Mr. CURTIS. Yes, sir, in all cases where the merchandise has got away and we bring a suit for its value instead of having seized the goods. That is not so drastic a provision as might appear at first blush. When we show probable cause, then the burden shifts onto the defendant to show that his entry was correct. That is in seizure cases, and I think it should be the same in the case where there would have been seizure if we had found evidence of improper entry earlier. I do not think there ought to be any distinction between the two cases, as it is a mere question of time of discovery.

Mr. HULL. After having first established to the satisfaction of the court by the circumstances what was probable cause, then the burden shifts?

Mr. CURTIS. Yes, sir.

SUBSECTION 21.

Section 21 I think is all right. That abolishes fees, except as specifically retained and provides for a declaration in place of an oath.

Subsection 22——

Mr. HULL. "That where such fees, under existing laws, constitute, in whole or in part, the compensation of any officer such officer shall receive, from and after the passage of this act, a fixed sum for each year equal to the amount which he would have been entitled to receive as fees for such services during said year"; how much salary to any officers are given under that provision?

Mr. CURTIS. We now pay our collectors and surveyors of customs in 36 different ways. Some of them are on a flat salary basis, some of them receive a small salary and fees, some receive a salary, fees, and a commission; some receive salaries, fees, commissions, and payment for services to American vessels. Under the reorganization plan that we are submitting to the President——

The CHAIRMAN. We will not go into that, because you have a plan under consideration.

Mr. CURTIS. That will abolish the whole fee system, if the President approves it.

The CHAIRMAN. If that is approved this section ought to be amended to conform to it, and not enacted?

Mr. CURTIS. Yes, sir. If the plan is approved, care should be taken that section 21 is not reenacted to foil the plan.

SUBSECTION 22.

Subsection 22 is concerning nonallowance for shortage or non-importation caused by decay of perishable articles. I do not think anybody reading that for the first, second, or third time would ever understand it. We have some regulations now that are understandable and are working pretty well, and if it were not for the fact that it has been interpreted and people now know what it means fairly well, I should recommend that it be put into plain English; but since it has been interpreted and is working fairly well, I think it might be left alone. But an ordinary man can not understand it without a great amount of study.

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SUBSECTION 23.

Section 23 provides for the refund of duties paid in excess, with a proviso at the end:

That the Secretary of the Treasury shall, in his annual report to Congress, give a detailed statement of the sums of money refunded under the provisions of this act or of any other act of Congress relating to the revenue, together with copies of the rulings under which repayments were made.

I think that ought to be repealed. The Secretary, on March 7, 1912, wrote a letter to the Speaker of the House recommending the repeal of that proviso.

The reports we submit now and have submitted ever since 1875 are extremely misleading. They do not show the amounts of the refunds, nor do they show the decisions under which they were made, except with respect to certain types of refunds made at a certain type of ports. I believe that the work that would be necessary to show every refund and every ruling would be so much more than the knowledge that Congress would get, the work would be so much out of proportion to the increase of Congress's knowledge on the subject, that it would not be worth while. I do not see any necessity for the proviso. All the decisions of the Court of Customs Appeals and of the Treasury Department that are of any public interest are published once a week. If we complied with the letter of this section, every application that was made to the department for a refund, say on a work of art where the affidavit of the consignor had been lost, would have to be put in this report and our reasons put in. I think it should be repealed.

I notice in Mr. Charles S. Hamlin's letter that he recommends that it be literally complied with and not repealed. With all due respect, it does not appear that he attempted to change the practice when he was Assistant Secretary. And if he comes as Secretary I would like to see him undertake that job; he would find himself face to face with the very large problem of copying the decision of every case of refunds. Many times there are not any decisions; there is simply an application made upon which I write "Approved," and that is the end of it. I do not see the use of the proviso, unless Congress thinks there is an abuse somewhere in the Treasury Department. As it is handled to-day, the cases where there might be an abuse are not reported to Congress at all, as only cases where there are published decisions are reported, and of course anybody may read the weekly decisions for themselves. I would like to refer the committee to the letter of the Secretary addressed to the Speaker, I think under date of March 8 of last year, regarding that section and recommending the repeal of the proviso.

SUBSECTION 24.

Section 24, I think, is all right and should be left.

SUBSECTION 25.

Section 25 is concerning the offering of a bribe, and I think is all right.

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SUBSECTION 26.

Section 26 is the soliciting of a bribe, and it is all right.

SUBSECTION 27.

Section 27 concerning the baggage of passengers I think is all right.

SUBSECTION 28.

Section 28 is the repealing section.

SUBSECTION 29.

Section 29 provides for the creation of the Court of Customs Appeals. My own view on that—and I am not speaking for the Secretary at all—is that that court has not got enough to do; that the membership might be enlarged from 5 to 7, and the judges given the *nisi prius* function, which I have already referred to. They have about 200 cases a year, and as there are 5 of them, that makes about 40 decisions a year for each one. It is not any more than the Supreme Court of the United States does in a year, handling the great problems that they have to handle. Most of the problems before the Customs Court are comparatively trivial. They are on small issues. Few of them are of real significance or importance. While I believe the creation of the court and its operation is a good thing, I do not think the judges are overburdened with work. For the sake of comparison, I will say that the Circuit Court of Appeals for the Second Circuit, composed of 4 judges, disposed of 244 cases of all sorts during the last fiscal year, and, in addition, each judge sat for a month or more in the district court as a *nisi prius* court.

REFUNDS.

Mr. PETERS. I want to ask you about that suggestion of Mr. Hamlin's as to the refund of duties.

Mr. CURTIS. You do not mean the report, but the actual refund?

Mr. PETERS. Yes; on page 5105.

Mr. CURTIS. I think his suggestion is that the refund be only made where the Secretary is satisfied that no recoupment of the duties collected in excess has been received by the importer from his vendees.

Mr. PETERS. Yes, that is my understanding.

Mr. CURTIS. I think that would be pretty hard to administer. He refers, at the bottom of the page, to the act of February 1, 1909, authorizing the Secretary to refund the duties on anthracite coal which were collected during the coal strike of 1902 and 1903, where such a proviso was put in. I have had to rule on those coal cases, and I have always felt it was a very difficult thing to ascertain whether or not the importers had actually been recouped for the duties they paid on the coal. We were forced to accept affidavits from the importers as to what their books showed concerning prices paid and the amounts, and what they got from the persons to whom they sold. There is almost no way of checking that up and showing

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definitely whether they were recouped for the duties by the different persons.

Some of the cases arose between persons who imported with a contract already existing for the sale of the coal that they imported, and there it became a very difficult question of analysis to find out whether they had been recouped under their contracts. On the other hand, I agree with Mr. Hamlin as to what happens on a refund. In a majority of cases the importer has sold his goods on the basis of the higher rate he has had to pay before he had his merchandise released. But I think it would be very hard to administer any such proviso. It seems to me pretty nearly impracticable. Under present conditions the lawyer or broker gets his half of the refund any way, so that it would not be quite fair to the importer.

NEW SECTIONS PROPOSED.

I would like to suggest this, that if a person who ships merchandise from a foreign country, either selling or consigning, should fail to submit to an inspection of a duly accredited officer of the United States any or all of his books, records, or accounts appertaining to the value or classification of such merchandise he shall be subject to having his merchandise excluded from importation, in the discretion of the Secretary. We have a great many occasions to find out the real manufacturing costs of merchandise, but it is very difficult to do so. The manufacturers naturally hate to give up their information, and I think we ought to have more pressure than we can now bring on them. At the present time the only measure we have is through the consuls, who are authorized not to consulate an invoice if they are satisfied that the values stated in the invoice are not correct, and our confidential agents have to appeal to the consuls to try to satisfy them that the value is not correct, and that creates a great deal of friction. Consuls do not know exactly how they ought to act, as they have sometimes been criticized by the State Department for assisting our men in that way. I think we ought to have a right to see the books.

We have an agreement with Germany which is very drastic. Our agents can not proceed in Germany without the approval of the chambers of commerce in the different localities. The chambers of commerce there are quasi-governmental bodies, so that our confidential agents have to first call on the president of the chamber of commerce and tell him they want to see somebody's books. That makes it very difficult to get information. I think if we had a little provision like this we would get the information we want.

I will submit my suggestion, with the others, at the close of the hearing.

Of course that might create difficulties in Europe, but it is a power we ought to have. The Canadian Government has the power and exercises it. If you are going to have a lot of ad valorem rates, you have got to have some power to find out what the value is.

MR. HULL. The Canadian Government can send an agent down to the office of any shipper in the United States and go through his books.

MR. CURTIS. Yes.

MR. HULL. If they refuse to show their books, they refuse to let their goods enter?

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Mr. CURTIS. I understand so; yes.

As a corollary to that I would offer another suggestion, which is, that on arrival in this country, if the importer will not show his books, his merchandise shall have an embargo put on it. That is not so absolutely necessary, because now the collector can summon him in. But the only present penal provision is for a \$100 fine. It may be that the nondisclosure of the proper value is worth \$500,000 in the course of a year or so, and I do not see why the Government should not take to itself all the power necessary to ascertain the truth.

The CHAIRMAN. You ought to give the Government all the machinery it needs to settle those questions of fraud and undervaluation. There is no doubt about that, it seems to me.

Mr. CURTIS. Another matter that causes us a good deal of difficulty is the question as to when a commission is properly charged. A bona fide commission may be deducted from the entered value to make market value. Under the guise of that almost any importer can put down a commission of, say, 5 per cent and deduct it, and we have no means of checking that up and finding out whether a real commission was paid or not. In that connection I suggest that we have all the commissionaires registered, so that when an item of commission to be deducted is put on an invoice it shall not be allowed unless it is from one of the registered commissionaires. That comes up continually, day after day. All the time we have questions as to whether a commission is a proper one, and the only proper commissions are those where there is a more or less permanent employment of a commissionaire who does the buying and assembling for a person and ships it over and charges a commission for his services. Under the guise of that two things happen, an importer on this side will employ as part of his staff a person to go abroad and collect his purchases and send them over. He receives no real commission, but the importer sometimes charges for his services as a commission and deducts the charge from the invoice value. On the other hand, persons in Europe, especially in France, have in one corner of their offices a person whom they call a commissionaire. He is really an employee of the seller. He deducts a commission there for the American buyer. That should not be allowed; while it is done it is simply a fraud. This is a matter that would cover daily occurrences.

Then I would like to have this proviso [reading]:

No consular officer shall certify to the truth of the values stated in any invoice unless by actual investigation he has determined such values.

As it is to-day the consular invoice is certified to and the consul has to certify on it that he believes the statements therein to be true. The consul has not any foundation for that belief in ninety-nine cases out of a hundred, and his certification does not mean anything. I think he should be prohibited from certifying to that effect, unless he has really investigated. Possibly he ought to be prohibited from doing it at all. There is always a space on the invoice, where he gives information for the appraising officer; he adds something for the information of the appraising officer on this side, where he knows some specific fact concerning the merchandise. I think you might prohibit the consul certifying to the value, but let him add in the proper

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place what he does know about the merchandise, because his appraising certificate is almost wholly meaningless.

Mr. HULL. And does that certificate have any weight with the appraising officers at New York?

Mr. CURTIS. Not so much at New York, but it does at the smaller ports, where the officers have not the same knowledge, experience, or means of ascertaining true values.

Mr. HULL. It is taken as prima facie evidence of the truthfulness of the things, when, in fact, he knows nothing about it?

Mr. CURTIS. The original theory of the law was that that was to validate the integrity of the invoice, that the consul was to see that the prices stated were correct. Now, as a matter of fact, it does not have any such tendency at all, because he has not the time to look it up, and in ordinary cases does not do so.

Mr. HULL. Would he make a certificate of the truthfulness of it and make note below showing that the certificate is not true?

Mr. CURTIS. He sometimes does; he will let an invoice go through where he is not sure there has been a fraud, but he will make a note for the benefit of the appraiser to the effect that something has arisen which causes him to doubt the integrity of the invoice.

Mr. KITCHIN. Does he give a copy of that to the shipper?

Mr. CURTIS. That is on the triplicate copy which is mailed to the collector. The appraiser does not always see it, though he should.

I also want to suggest a provision to cover invoices of conglomerately assembled merchandise. As it is to-day, with immense invoices of merchandise totally different in character that has been collected from a variety of places, all thrown together in one invoice, the statements as to their values are made at the point of assembly and shipment.

Mr. HULL. That is limited to the one country?

Mr. CURTIS. I think it is. I would strike out the phrase of limitation. In other words, if anybody is importing an outfit, say for Marshall Field, or any department store, where they get all sorts of things on one invoice, the private bills of sale would show what the values were.

Mr. HULL. The law says it shall be based on the value at the place from which it is exported, and it is exported from the place where it is assembled, and this would be from the place at which it was originated.

Mr. CURTIS. The other statute—section eighteen—provides for taking the value in the principal markets of the country whence exported.

Mr. HULL. That is limited to the place from which it is sent.

Mr. CURTIS. That is the place of assembly?

Mr. HULL. Yes.

Mr. KITCHIN. I understand you wanted this as a means of ascertaining the real value?

Mr. CURTIS. Exactly.

Mr. KITCHIN. The cost in the country from which exported?

Mr. CURTIS. Exactly.

Mr. HULL. I know that; but the place from which it was originally started would have one price and the place from which it was exported would have another price, and the law provides that it shall be

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assessed at the value of the place from which it was imported into the United States.

Mr. CURTIS. Yes; this is another one of our difficulties. The consular and customs regulations require that the invoice shall be certified at the place where the shipment to the United States begins. This is usually the point of assembly, unless that point is simply a fictitious point of assembly. Ordinarily that is the place, and so we ought to know. We ought to get the actual bills of sale wherever they were, and then find out, have a statement of the freight between that place and the place of assembly, and check up the values.

Mr. KITCHIN. To check up and find out whether it is a correct invoice. A man in London might buy goods in Berlin and elsewhere and bring them to London and assemble them there, and send them here, and you want to know what he paid for the goods bought in the different places and see whether this invoice he has made out here states the correct value?

Mr. CURTIS. Exactly. We want that additional information.

Then I have two suggestions concerning the appointment of two additional sets of men to assist in appraisals—one called appraisers' investigators, who should do most of their work abroad, after having experience in this country, and the other called supervising examiners, who may be detailed from port to port by the Secretary. I do not think it is necessary to take the committee's time on that now, because both of these things can be done under the proposed reorganization plan.

In mentioning those things I want to lay stress on the fact that the weakest point in our system is the appraisal of the merchandise. All the great frauds that have come out in the last four years have shown that, with the exception of the sugar cases and the figs and cheese cases from Greece. All the frauds have been because we could not appraise the merchandise properly and did not discover the proper valuation. The other cases were frauds in weighing or measuring, but the great losses to the revenue, and they are much larger than can be estimated, are on account of the lack of facilities to get at the truth. I think our appraisal system needs a very severe overhauling, which, I assume, will be up to the next administration to put into effect.

There is one more suggestion I would like to make. There is a proviso in section 2804, Revised Statutes, which was passed just after the Civil War, I think, providing that no importation of cigars shall be made in a less quantity than 3,000. I have had that investigated in our department and could find no reason for it at all. It throws the importing of cigars into the hands of the larger importers and restricts individuals who want to bring in cigars with them. The Post Office Department is, I understand, trying to arrange for a parcel-post convention with Cuba, and the existence of this statute prohibiting the importing of cigars in quantities of less than 3,000 is, I am informed, the only matter interfering with its negotiation. I have talked that matter over with the men in the Post Office Department and they want it repealed.

Mr. KITCHIN. What limit would you suggest?

Mr. CURTIS. I can not see any use for any limit. I suppose Congress had the idea that it would discourage smuggling, but I think it

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encourages it. If a man wants to bring in a thousand cigars knowing that if they are found they are going to be forfeited, he will try to evade the customs officers, whereas if he knows he has only to pay the duty, he will probably declare them.

Mr. KITCHIN. One hundred would probably be small enough?

Mr. CURTIS. Let them bring in 10 at a time if they want to; we can handle them just as well. Under our personal-baggage law they are allowed 50 cigars and 100 cigarettes.

Mr. HAMMOND. Do they make them part of the \$100 exemption?

Mr. CURTIS. No, sir; really we give them the 50 cigars and the cigarettes outside of the \$100 exemption. It is really \$100 personal effects and 50 cigars.

The CHAIRMAN. I want to ask you whether you had given any study to the question of the dumping clause?

Mr. CURTIS. I have not very much. I have considered it a little bit in relation to the Canadian law. My own view is that it would be an excellent thing. Of course, we have the proviso that we have to get the foreign market value for domestic consumption in the country of export, but that is not understood oftentimes by the shippers. They think if they sell to the United States at a given price that that is the particular price to put in the invoice. There is nothing but the ordinary penalty for not putting in the price for domestic values. I should be in favor of a dumping clause.

The CHAIRMAN. Would it cause any difficulty in administration on the Treasury Department?

Mr. CURTIS. I do not think it would be any great additional burden to what we have now. We have to find out the foreign value now, and if anybody was suspicious that a certain lot of merchandise was being dumped here it would be just as easy to have that investigated abroad as any other question.

Mr. KITCHIN. Would it not cause other countries to retaliate against us?

Mr. CURTIS. I think they would probably put in a dumping clause also.

Mr. PETERS. The suggestion was made that it might be advisable to have the invoice published so that it could be seen, with the idea that it would prevent fraud. Do you think that advisable?

Mr. CURTIS. I rather doubt that. At the present time we consider the entry of merchandise and the payment of duty a private transaction between the importer and the Government and we never permit the names of the importers to be published, or the details of the transactions, without their consent. Of course, that provision would really be in the interests of the protected interests. A domestic manufacturer suggested to me once that we hold an exhibition of imported merchandise, so that the domestic manufacturers might get new ideas. I told him that in the present state of public feeling that would not be very popular in my opinion.

Mr. RANDELL. We could very satisfactorily afford concessions under the operation of the maximum and minimum clause?

Mr. CURTIS. We have not had very much to do with that in the Treasury Department; that was done by the State Department. I know in a general way about those things, but I do not know the

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details of the concessions. I think that works better than nothing. It is a pretty big problem, but I think we ought to have a graded club that can be used with a little more finesse.

Mr. KITCHIN. If we could just find a way to stamp the tariff on every article so that the fellow who buys it knows what he pays for, we would not have any trouble with the tariff.

Mr. RANDELL. Drawback features of the present law can be administered satisfactorily?

Mr. CURTIS. I think so. It is a little wide open, in a way. We are never sure that there is not some substitution going on of domestic product for what is claimed to be the foreign imported raw material, but I think on the whole it works pretty well.

There are two points that might be brought out. The regulations on the sugar and sirup drawbacks have been a continuous source of trouble. The last previous change was in 1898 and we have been trying to change them for three years, and had great difficulty in getting any basis that was really equitable. We finally did change them three months ago and put them on a satisfactory basis, trying to get to what was the actual relative value between the refined sugar and the sirup thrown off in the process of refining. We had to take a somewhat approximate result in that regard. Mr. Spreckels is going to contest it to the Supreme Court, he says. He told me he was losing \$20,000 a month under the old drawback regulation which had been in existence since 1898, and that the regulation was illegal. But when I asked him why he had not tested it in court he said he thought he always had a better chance with the executives. I should think the committee might do well to look into the question of drawbacks on sugar and sirup. I know I have been working on it for years, and we just got it through three months ago. Everybody in the department felt that the old regulations were antiquated, and not doing justice as between the various refiners themselves and between the refiners and the Government.

The general drawback regulations work pretty well. We revised those about a year ago and they are running very smoothly now.

Mr. RANDELL. Would you recommend extending the system to any additional articles?

Mr. CURTIS. I think the provision——

The CHAIRMAN (interposing). The provision embraces nearly everything now; it is a blanket provision now.

Mr. CURTIS. Except the limitation on articles made of domestic tax-paid alcohol. I never could see why that should not be extended to cover things other than medicinal and toilet preparations.

